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# Executive Orders

## EXECUTIVE ORDER JBE 17-05

Flags at Half-Staff—Honorable Armand Joseph Brinkhaus

WHEREAS, born in St. Landry Parish on November 7, 1935, the Honorable Armand Joseph Brinkhaus died on February 12, 2017;

WHEREAS, he was first elected to serve in the Louisiana House of Representatives in 1968, and then in 1976, he was elected to serve in the Louisiana Senate, faithfully serving the public as a legislator for twenty-eight years;

WHEREAS, he was the first law clerk at the Third Circuit Court of Appeal in Lake Charles, and while he was widely known and respected for his skills and talents as an attorney, he also managed two family farms, was an avid reader of historical fiction, and played the piano, saxophone and clarinet;

WHEREAS, Armand Brinkhaus served with distinction as chairman of both the Senate and Governmental Affairs Committee and the Senate Education Committee, and also served as a member of other legislative committees including the Senate Finance Committee, the Senate Higher Education Committee, the Senate Judiciary C Committee, the House Agriculture Committee, the House Appropriations Committee, the House Judiciary D Committee, the House and Governmental Affairs Committee, and the Legislative Budget Control Council;

WHEREAS, his accomplishments included support and promotion of the Council for the Development of French in Louisiana (CODOFIL) and legislative changes to the state's education system, supporting legislation to increase the salaries of teachers, bus drivers, and school support personnel;

WHEREAS, he authored legislation to increase the salaries of appellate, district, family, juvenile, parish, city, traffic, and municipal court judges and to create the Twenty-Seventh Judicial District Criminal Justice Commission;

WHEREAS, he authored legislation that improved local road and drainage systems and created the St. Landry Parish Economic and Industrial Development District, the Acadiana Railroad Development District, the St. Landry Parish Solid Waste Disposal Commission, the Washington Museum and Tourist Commission, and the South St. Landry Parish Community Library District;

WHEREAS, among the many awards he received recognizing the good work he did throughout his career, he was honored with distinguished service awards from the St. Landry Parish Farm Bureau, the Handicapped and Exceptional Children of Louisiana, the Louisiana Pharmacy Association, the Louisiana Restaurant Association, and the Louisiana Federation of Teachers. He was chosen to receive the Louisiana Association of Educators' President's Special Recognition Award and was awarded the L'Association Internationale des Parlementaires de Langue Francaise L'Ordre de la Pleiade for distinguished dedication to the development of the French language and the preservation of the francophone culture in Louisiana; and

WHEREAS, Armand Brinkhaus' life was dedicated to the State of Louisiana and serving its people with honor and dignity, and he will long be remembered for his loyalty, integrity and love of his family and the citizens he served.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect and to honor the Honorable Armand Joseph Brinkhaus, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Friday, February 17, 2017.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, February 17, 2017.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of February, 2017.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1704#070

## EXECUTIVE ORDER JBE 17-06

Flags at Half-Staff—Sergeant Shawn Thomas Anderson

WHEREAS, Sergeant Shawn Thomas Anderson, a veteran deputy with the East Baton Rouge Parish Sheriff's office, died on March 18, 2017 in the line of duty;

WHEREAS, before joining the Sheriff's office in May 1999, he served three years in the United States Army stationed at Ft. Sill, Oklahoma, where he was assigned to Multiple Launch Rocket Systems;

WHEREAS, in his eighteen years with the East Baton Rouge Parish Sheriff, he served in multiple divisions, including Narcotics, Emergency Services Unit, Maritime Response Team, and became a master handler and trainer in the Canine Division;

WHEREAS, he also served as a member of the East Baton Rouge Parish Sheriff's SWAT team for eleven years, and while on SWAT, in 2014, he was recognized for serving more than sixty high-risk warrants the previous year with no injuries or shots fired;

WHEREAS, he also served in uniform patrol across East Baton Rouge Parish, where he was known and recognized for his commitment to public service by his fellow officers and the community he served, always willing to help wherever the need arose, whether it was a couple whose baby he helped deliver on the side of the road or someone whose lost cat he helped locate when responding to a house alarm; and

WHEREAS, the impact of Shawn Anderson's commitment to public service and the State of Louisiana will be felt for years, by his family and loved ones, by his co-workers, and by the many people in the community that he helped.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect and to honor Shawn Thomas Anderson, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Thursday, March 23, 2017.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Thursday, March 23, 2017.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of March, 2017.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1704#011

#### **EXECUTIVE ORDER JBE 17-07**

##### **Offender Labor**

WHEREAS, Louisiana Revised Statute 15:832.1 was enacted by Act No. 933 of the 1988 Regular Session of the Louisiana Legislature relative to correctional facilities offender labor;

WHEREAS, as amended, La. R.S. 15:832.1 permits the governor to authorize the use of offender labor in certain projects or maintenance or repair work; and

WHEREAS, upon determining that it is appropriate and in furtherance of the rehabilitation and training of offenders, the governor may issue an executive order to authorize the use of offenders of a penal or correctional facility owned by the State of Louisiana for necessary labor in connection with a particular project.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: In furtherance of the goals of the State of Louisiana of supporting positive offender welfare, rehabilitating offenders, reducing recidivism, and reintegrating offenders into society, offender labor is hereby authorized for the replacement of certain heater units at Raymond Laborde Correctional Center, Cottonport, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified,

terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of March, 2017.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1704#025

#### **EXECUTIVE ORDER JBE 17-08**

##### **Offender Labor**

WHEREAS, Louisiana Revised Statute 15:832.1 was enacted by Act No. 933 of the 1988 Regular Session of the Louisiana Legislature relative to correctional facilities offender labor;

WHEREAS, as amended, La. R.S. 15:832.1 permits the governor to authorize the use of offender labor in certain projects or maintenance or repair work; and

WHEREAS, upon determining that it is appropriate and in furtherance of the rehabilitation and training of offenders, the governor may issue an executive order to authorize the use of offenders of a penal or correctional facility owned by the State of Louisiana for necessary labor in connection with a particular project.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: In furtherance of the goals of the State of Louisiana of supporting positive offender welfare, rehabilitating offenders, reducing recidivism, and reintegrating offenders into society, offender labor is hereby authorized for the replacement of certain heater units at B.B. Rayburn Correctional Center, Angie, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of March, 2017.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1704#028

## EXECUTIVE ORDER JBE 17-09

Flags at Half-Staff—Honorable Ralph R. Miller

WHEREAS, born and raised in Norco, Louisiana, the Honorable Ralph R. Miller died on March 30, 2017, at the age of 82;

WHEREAS, first elected to the Louisiana House of Representatives in 1968, he represented District 56 for twenty-two years, where he served with distinction as chairman of the Committee on Administration of Criminal Justice and the Committee on Municipal, Parochial and Cultural Affairs;

WHEREAS, his time at the Legislature was marked by his commitment to bring greater transparency and accountability to all levels of government, and he utilized his experience and knowledge of the legislative process in his capacity as a lobbyist for twenty-five years;

WHEREAS, during and after his legislative service, Ralph always reached across lines of race, geography and party to make lasting friendships; he valued relationships far more than politics; and he always remembered to stay in touch with his many friends, sharing anecdotes and insights along with his infectious laugh and hallmark sense of humor;

WHEREAS, many boards benefited from his service as a member, including the Louisiana Mid-Continent Oil and Gas Association, the Public Affairs Research Council, the New Orleans Chamber of Commerce, the Bureau of Government Research, the World Trade Center, the Council for a Better Louisiana, and the Louisiana Association of Business and Industry;

WHEREAS, he was known throughout Norco and St. Charles Parish for his passion to preserve historic structures in Louisiana, most notably through his work as a founding and lifelong member of the River Road Historic Society; and

WHEREAS, beloved by family and friends, Ralph Miller dedicated his life to serving the community he loved; his, warmth, humor, kindness and generosity will long serve as an inspiration to the many people impacted by his good work.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect and to honor the Honorable Ralph R. Miller, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Wednesday, April 5, 2017.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Wednesday, April 5, 2017.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 4th day of April, 2017.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1704#029

## EXECUTIVE ORDER JBE 17-10

Flags at Half-Staff—Honorable Michael Lee Tinnerello

WHEREAS, a lifelong resident of Winnfield, Louisiana, the Honorable Michael Lee Tinnerello died on April, 5, 2017, at the age of 72;

WHEREAS, elected to the Louisiana House of Representatives from 1984 to 1988 to represent District 13 for the Parishes of Jackson, Bienville, and Winn, he remained an active figure in Louisiana politics for the remainder of his life, where his persuasive and effective advocacy will be sorely missed;

WHEREAS, he was a persuasive force in his efforts to provide support to and attract more businesses to the State; his district received more economic development grants than almost any other district during his tenure as state representative;

WHEREAS, Representative Tinnerello was known for his commitment to his community, which included service as a board member of the Louisiana Political Hall of Fame and Museum, Board of Elections Supervisors, Board of Winn Parish Community Health Center, and as Chairman of the Winn Parish Democratic Executive Committee and the Winn Parish Ducks Unlimited;

WHEREAS, while many love to tell stories about the remarkable reputation he enjoyed as an all-around athlete on the field in his youth—he signed a football scholarship with the University of Southwestern Louisiana and also played on two conference championship baseball teams after transferring to Northeast Louisiana University—he also inspired countless young minds off the field in his 16 years of experience teaching and coaching;

WHEREAS, an avid duck hunter and a man devoted to his faith as a member of First Baptist Church of Winnfield, Representative Tinnerello will be missed tremendously by those who knew him, and, thanks to a lifetime of dedication to improving the State of Louisiana, the community he loved so dearly will forever be impacted by his service.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect and to honor the Michael Lee Tinnerello, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Friday, April 7, 2017.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, April 7, 2017.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of April, 2017.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1704#069

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office Agricultural and Environmental Sciences

#### Citrus Greening and Citrus Canker Disease Quarantine (LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of the state entomologist in R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus greening disease ("CG") and citrus canker disease ("CC") caused by the bacterial pathogens *Xanthomonas axonopodis* pv. *citri* and *Xanthomonas axonopodis* pv. *aurantifolii*. The state entomologist has determined that CG and CC has been found in this state and may be prevented, controlled, or eradicated by quarantine.

CG and CC pose an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to their ability to infest rutaceous plants. This industry has a farm value of \$2,400,000-\$5,000,000 in southeastern Louisiana in the form of citrus nursery stock, and \$5,100,000 in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes death of infested plants. CC causes premature leaf and fruit drop, twig dieback and tree decline in citrus trees and is spread by wind-driven rain or through the movement of infected plants. Failure to prevent, control, or eradicate these diseases threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds \$7,500,000-\$10,000,000 to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantine and labeling requirements established by this emergency regulation is necessary to prevent the spread of CG and CC in Louisiana outside of the current areas where these diseases have already been found.

For these reasons, the outbreak CG and CC in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Emergency Rule shall supersede and replace the Emergency Rule that became effective of March 3, 2017, and was published in the Louisiana Register at LR 43:498.

This rule shall have the force and effect of law March 24, 2017, and will remain in effect 120 days, unless renewed by the Commissioner of the Department of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter B. Nursery Stock Quarantines

##### §127. Citrus Nursery Stock, Scions and Budwood

A. - C.6. ...

D. Citrus Greening

1. The department issues the following quarantine because the state entomologist has determined that citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter spp.*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans, Washington, Jefferson, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of CG and their movement is prohibited from CG-quarantined areas due to the presence of CG:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Amyris madrensis*, *Atalantia spp.* (including *Atalantia monophylla*), *Balsamocitrus dawei*, *Bergera* (= *Murraya*) *koenigii*, *Calodendrum capense*, *Choisya ternata*, *Choisya arizonica*, *X Citroncirus webberi*, *Citropsis articulata*, *Citropsis gillettiana*, *Citrus madurensis* (= *X Citrofortunella microcarpa*), *Citrus spp.*, *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus hybrid*, *Esenbeckia berlandieri*, *Fortunella spp.*, *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, *X Microcitronella spp.*, *Murraya spp.*, *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris* (= *Toddalia lanceolata*), and *Zanthoxylum fagara*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading CG, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations.

E. - E.3.d.iii.b. ...

F. Citrus Canker Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus canker disease (CC), caused by the bacterial pathogen *Xanthomonas axonopodis* pv. *citri* (Xac A, A\* and AW) with synonyms *X. citri* pv. *citri*, or *X. citri* subsp. *citri* or *X. campestris* pv. *citri* or *X. smithii* subsp. *citri*; and *X. axonopodis* pv. *aurantifolii* (Xac B and C) with a synonym *X. fuscans* subsp. *aurantifolii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. No regulated materials as defined in this Subsection shall be moved out of any area of this state that is listed in this subsection as a quarantined area for CC, except as provided in this subsection.

3. Any person violating this quarantine shall be subject to imposition of the remedies and penalties provided for in R.S. 3:1653 for any violation of this quarantine.

4. Quarantined areas in this state include:

a. the entire parishes of Orleans, St. Bernard, Plaquemines, Jefferson, Lafourche, St. Charles, St. James and St. John.

b. A declaration of quarantine for CC covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the Louisiana Register.

F.5. - 6.i.iv. ...

G. Labeling Requirements for Citrus Related Quarantines

1. Any citrus nursery stock sold, moved, or distributed within an area quarantined for Citrus Greening, or Citrus Canker shall have attached to the article or to the container of the article, a permanent and weatherproof tag or label in a clear and legible format no less than 14 point font bearing the exact words: PROHIBITED FROM MOVEMENT OUTSIDE OF THE CITRUS QUARANTINE AREAS, PENALTY FOR VIOLATION, Louisiana Department of Agriculture and Forestry. For a current list of quarantine areas, please go to [www.ldaf.state.la.us](http://www.ldaf.state.la.us).

2. Citrus nursery stock that is not in or intended for movement within a citrus greening or citrus canker quarantined area shall not be required to be labeled as described in Paragraph 1 of this Subsection.

3. Citrus nursery stock labeled or tagged according to Paragraph 1 of this Subsection that is offered for retail sale in an area that is not quarantined for citrus greening or citrus canker may be subject to stop order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 43:

Mike Strain DVM,  
Commissioner

1704#013

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Animal Health and Food Safety

Turtles (LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is extending an Emergency Rule amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles. The Emergency Rule was initially published at LR 42:512 and was last renewed on November 28, 2016 at LR 42:2118.

Currently, LAC 7:XXI.1909 requires a health certificate and certified laboratory report accompany all international shipments, irrespective of whether the country of destination requires the same. Louisiana is the only state in the nation with these exit requirements in lieu of following the entry requirements for the country of destination. The current regulation is overly burdensome and adds additional cost to Louisiana turtle farmers attempting to ship their commodities internationally. By amending LAC 7:XXI.1909 to require a health certificate and certified laboratory report when required by the country of destination, instead of for every international shipment, Louisiana turtle farmers will no longer be subject to an unfair trade disadvantage.

This Rule shall have the force and effect of law on March 27, 2017 and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until permanent rules are promulgated in accordance with law.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXI. Animals and Animal Health

#### Chapter 19. Turtles

#### (Formerly Chapter 23)

#### §1909. Movement of Turtle Eggs and Turtles

#### (Formerly §2307)

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce if required by the country of destination. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. - 6. ...



7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package. Turtles or eggs intended for international commerce shall be accompanied by a health certificate and/or a certified laboratory report if either is required by the country of destination.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 43:

Mike Strain, DVM  
Commissioner

1704#014

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Licensing Section

Residential Home  
(LAC 67:V.Chapter 71)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V, Subpart 8, Residential Licensing, Chapter 71, §§7107, 7109, 7111, and 7117. This Emergency Rule shall be effective March 31, 2017, and shall remain in effect for a period of 120 days.

The department considers emergency action necessary in order to revise the residential licensing standards to correctly identify referenced regulations and Section numbers.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 8. Residential Licensing

#### Chapter 71. Residential Homes, Type IV

#### §7107. Licensing Requirements

A. - F.3.c. ...

d. All staff/children of residents'/resident's information shall be updated under the new ownership as required in LAC 67:V.7111.A.2.c, A.5, A.7, B.2, and B.4.b-g prior to or on the last day services are provided by the existing owner.

e. If all information in Paragraph F.3 of this Section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with Paragraph F.3 of this Section.

F.3.f. - L.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare

Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:

#### §7109. Critical Violations/Fines

A. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its' discretion elect to impose sanctions, revoke a license, or both:

1. §7107.A.5, §7111.A.2.c.ii, §7111.A.5.b, or §7111.B.2.a.ii—criminal background check;
2. §7107.A.6, §7111.A.2.c.iii, §7111.A.5.c, or §7111.B.2.a.x—state central registry disclosure;
3. §7111.A.9.a.i.-v, vii, ix, or x—staffing ratios;
4. §7117.F.19—motor vehicle checks;
5. §7111.D.1.a or b—critical incident reporting; and/or
6. §7111.A.9.a.vi, §7111.A.9.a.xi, §7111.A.9.a.xiii-xv, §7111.A.4.c, §7123.B.5, or §7123.B.6.—supervision.

B. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:

#### §7111. Provider Requirements

A. - A.5.b. ...

c. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of the individual receiving notice of a justified (valid) determination of child abuse or neglect. All requirements in §7111.B.2.a.x.(a)-(c) shall be followed.

6. - 7.b.xxiv. ...

xxv. use of specialized services identified in §7117.D.6;

7.c. - 8.a.xx. ...

xxi. use of specialized services identified in §7117.D.6; and

a.xxii. - c. ...

d. All direct care staff shall have documentation of current certification in adult CPR and first aid. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training. Online-only training is not acceptable.

A.8.e. - J.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:

## **§7117. Provider Services**

A. - F.18. ...

19. A visual inspection of the vehicle is required to ensure that no child of a resident is left in the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. For field trips, staff shall inspect the vehicle and conduct a face-to-name count conducted prior to leaving the facility for the destination, when destination is reached, before departing destination for return to facility, and upon return to facility. For all other transportation, the staff shall inspect the vehicle at the completion of each trip prior to the staff person exiting the vehicle. The staff conducting the visual check when a child of a resident is transported shall document the time of the visual check inspection and sign his or her full name, indicating that no child of a resident was left in the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:278 (February 2017), LR 43:

Marketa Garner Walters  
Secretary

1704#020

## **DECLARATION OF EMERGENCY**

### **Department of Health Board of Pharmacy**

#### **Accreditation of Pharmacy Technician Training Programs (LAC 46:LIII.905)**

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the process of obtaining a pharmacy technician certificate by delaying the implementation of the requirement to complete a nationally-accredited pharmacy technician training program as one of the qualifications to obtain the credential.

Prior to June 2013, the rule required the pharmacy technician candidate to complete a training program that was approved by the board. In response to stakeholder input requesting flexibility in how those programs were to be established, the board permitted programs to be established at individual pharmacies in addition to universities, community and technical colleges, as well as proprietary schools. Over the course of approximately ten years, the board tracked the state's pass rate on the national certification program and observed a steady decrease. The board determined that workplace training alone was not sufficient and, in June 2013 instituted a change, to begin in January 2016, that would require the training program to be nationally accredited. The three year delay was intended to increase the number of such nationally accredited programs in the state.

During their meeting in November 2015, the board entertained a request from some chain pharmacies to further delay the implementation of the accreditation requirement

until 2020, citing their concerns with some of the accreditation standards. The board took note of the increased number of accredited programs in the state, from one in 2013 to over a dozen in 2015. The board also took note of the continuing decrease in the state pass rate on the national certification examination, with a 45 percent pass rate in 2015. The board also received input the requirement should be transferred from those persons submitting applications for the technician certificate to those persons submitting applications for the technician candidate registration, to eliminate the difficulty for persons who start under the previous rule and attempt to finish under the new rule. The board agreed to a one year delay in the accreditation requirement, and since there is not sufficient time to promulgate a change in the rule before the current January 1, 2016 implementation date, the board has determined that an emergency rule is necessary. During the one-year delay, the board plans to promulgate the additional change to transfer the requirement for completion of an accredited program as a qualification for the pharmacy technician certificate to require enrollment in an accredited program as a qualification for the pharmacy technician candidate registration.

The board has determined that failure to implement the emergency rule will cause interruptions in the licensure process for pharmacy technicians, potentially causing a decrease in the number of pharmacy technicians in the available workforce. The board has determined this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original declaration of emergency was effective November 30, 2015. Although the board is working on the changes, they need more time; therefore, they have directed the revision of the date from 2017 to 2018. This revised Emergency Rule is effective March 15, 2017 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur.

### **Title 46**

## **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

### **Part LIII. Pharmacists**

#### **Chapter 9. Pharmacy Technicians**

#### **§905. Pharmacy Technician Certificate**

A. - A.3.a. ...

b. For those applicants submitting applications on or after January 1, 2018, the applicant shall demonstrate successful completion of a nationally-accredited and board-approved pharmacy technician training program, as evidenced by a valid and legible copy of the appropriate credential from that program.

A.4 - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, repromulgated LR 19:1025 (August 1993), LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), LR 39:1777 (July 2013), amended LR 43:

Malcolm J. Broussard  
Executive Director

1703#006

## DECLARATION OF EMERGENCY

### Department of Health Board of Pharmacy

#### Reinstatement of Controlled Dangerous Substance (CDS) Licenses (LAC 46:LIII.2707)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate an amendment of its controlled substance license rules to reduce the administrative procedures, and the amount of time, necessary for the reinstatement of controlled dangerous substance licenses held by certain practitioners.

The board issues controlled dangerous substance (CDS) to several different types of practitioners whose primary professional license grants them prescriptive authority for one or more schedules of controlled substances. When a primary licensing agency suspends or revokes a practitioner's professional license, the Board of Pharmacy suspends the CDS license based upon the primary licensing agency's action. When the primary licensing agency reinstates the primary professional license, the practitioner applies to the Board of Pharmacy for the reinstatement of their CDS license.

The board's current rule for the reinstatement of a CDS license suspended by the Board of Pharmacy requires the board to convene an administrative hearing to consider the reinstatement application, make a determination, and issue an order. Since the Board of Pharmacy typically meets only four times per year, there is a potential for a significant amount of time to lapse between the restoration of the primary professional license and the reinstatement of the practitioner's CDS license. During this period of time, the practitioner is authorized to practice under terms dictated by the primary licensing agency; however, the absence of a CDS license prohibits the practitioner from prescribing any controlled substances for his patient.

The board proposes to amend the relevant rule to allow for a waiver from the requirement of an administrative hearing when the chair of the reinstatement committee and the board's president jointly agree to approve the reinstatement request in the interim between board meetings. When such approvals are issued, the president is authorized to sign a reinstatement order, and staff would be able to reinstate the CDS license. This will prevent the necessity of waiting for a quarterly administrative hearing, and would permit the staff to reinstate the CDS license shortly after the restoration of the primary professional license. This will allow the practitioner to prescribe controlled substances for his patient when needed.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original declaration of emergency was effective November 17, 2016. The board has not yet completed the promulgation process and needs additional time to do; therefore, they have directed the re-issuance of the original Declaration of Emergency. This Declaration of Emergency is effective March 15, 2017, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 27. Controlled Dangerous Substances

##### Subchapter B. Licenses

##### §2707. Licensing Procedures

###### A. - C.3. ...

4. An application for the reinstatement of a CDS license for a pharmacy which was suspended or revoked by the board may only be approved by the full board following a hearing to determine whether the reinstatement of the license is in the public's best interest. For all other CDS licenses, the reinstatement may be approved by the joint consent of the chair of the reinstatement committee and the board president without the necessity of a hearing; when such approvals are issued, staff shall prepare a reinstatement order for the president's signature.

###### C.5. - D.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2131 (October 2008), amended LR 43:

Malcolm J Broussard  
Executive Director

1704#005

## DECLARATION OF EMERGENCY

### Department of Health Board of Pharmacy

#### Standing Orders for Distribution of Naloxone (LAC 46:LIII.2541)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate a new rule authorizing pharmacists to distribute naloxone and other opioid antagonists pursuant to standing orders issued by Louisiana-licensed medical practitioners in lieu of patient-specific prescriptions.

The abuse and addiction to opioids is a global problem that is estimated to affect between 26.4 million and 36 million people worldwide. Of those addicted in the United States, 2.1 million are addicted to prescription drugs and another 517,000 are addicted to heroin, according to estimates from the federal Centers for Disease Control and Prevention (CDC). Deaths in the United States, and Louisiana, related to opioid drug use have been rising since 1999, resulting in more deaths in 2014 than ever before. Data from the coroners and medical examiners in Louisiana reveal 100 deaths in this state in 2011 rising over time to 248 deaths in 2015. Preliminary data for the first six months of 2016 indicate we are on the same deadly trajectory.

Naloxone and other opioid antagonists are prescription drugs that produce rapid and dramatic reversals of life-threatening symptoms of opioid-related drug overdoses. Since time is of the essence in drug overdose cases, it is important the drugs be readily available to whoever might

first encounter the overdose patient, be it family, caregivers, or first responders.

Act 370 of the 2016 Louisiana Legislature authorized licensed medical practitioners to issue nonpatient-specific standing orders for the distribution of naloxone and other opioid antagonists, in lieu of patient-specific prescriptions those drug products. The legislation also authorized pharmacists to dispense or distribute naloxone and other opioid antagonists pursuant to those standing orders as provided by rules promulgated by the Board of Pharmacy.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency was effective August 10, 2016. The board has almost completed the promulgation of the Rule but needs additional time and has directed the re-issuance of the original Emergency Rule, effective April 5, 2017. It shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIII. Pharmacists**

#### **Chapter 25. Prescriptions, Drugs, and Devices**

#### **Subchapter D. Prescription Drugs**

#### **§2541. Standing Orders for Distribution of Naloxone and Other Opioid Antagonists**

A. Given the current public health emergency relative to the misuse and abuse of opioid derivatives, public health officials have strongly recommended the widespread availability of naloxone and other opioid antagonists to addicts and their caregivers as well as first responders in the community.

B. For as long as naloxone and other opioid antagonists remain classified as prescription drugs by the federal Food and Drug Administration, pharmacists must secure a prescription or order from a prescriber with the legal authority to prescribe the drug product in order to dispense or distribute the drug product.

C. The Louisiana Legislature has adopted a number of laws designed to facilitate the distribution and dispensing of naloxone and other opioid antagonists beyond the person who would need the medication on an emergent basis to manage an opioid-related drug overdose, more specifically to first responders as well as caregivers and family and friends of potential patients.

1. Act 253 of the 2014 Legislature authorized prescribers to issue prescriptions for naloxone and other opioid antagonists to first responders, and further, authorized pharmacists to recognize such prescriptions as legitimate orders for the dispensing and distribution of naloxone and other opioid antagonist drug products, and further, authorized first responders to have and hold those drug products ready for administration in emergent conditions to manage opioid-related drug overdoses.

2. Act 192 of the 2015 Legislature authorized medical practitioners to prescribe naloxone or another opioid antagonist without having previously examined the individual to whom the medication would be administered, but only under certain conditions specified in the legislation, including the requirement for the prescriber to provide the

recipient of the drug with all training and education required for the safe and proper administration of the drug product.

3. Act 370 of the 2016 Legislature authorized medical practitioners to issue nonpatient-specific standing orders to pharmacists authorizing the distribution of naloxone and other opioid antagonists to anyone who might be in a position to assist a patient in the emergent management of an opioid-related drug overdose, but only in compliance with these rules.

a. A nonpatient-specific standing order for the facilitated distribution of naloxone or other opioid antagonist issued by a medical practitioner licensed by the state of Louisiana shall expire one year after the date of issuance.

b. A Louisiana-licensed pharmacist may distribute naloxone or other opioid antagonist according to the terms of the nonpatient-specific standing order issued by a Louisiana-licensed medical practitioner until the expiration date of the standing order. No pharmacist shall distribute naloxone or other opioid antagonist pursuant to a standing order more than one year after the date of issuance of the standing order.

c. Before releasing the naloxone or other opioid antagonist drug product to the recipient, the pharmacist shall verify the recipient's knowledge and understanding of the proper use of the drug product, including, at a minimum:

i. techniques on how to recognize signs of an opioid-related drug overdose;

ii. standards and procedures for the storage and administration of the drug product; and

iii. emergency follow-up procedure including the requirement to summon emergency services either immediately before or immediately after administering the drug product to the individual experiencing the overdose.

d. To comply with the recordkeeping requirements found elsewhere in the board's rules, the pharmacist shall attach a copy of the standing order to the invoice or other record of sale or distribution, and further, shall store these transaction documents with the other distribution records in the pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

Malcolm J. Broussard  
Executive Director

1704#019

### **DECLARATION OF EMERGENCY**

#### **Department of Health Bureau of Health Services Financing and Office of Behavioral Health**

Children's Behavioral Health Services  
Termination of Psychosocial Rehabilitation Services for  
Youth (LAC 50:XXXIII.2303 and 2703)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.2303 and §2703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is

promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, through collaborative efforts, provide coverage of behavioral health services for children and youth through a comprehensive system of delivery covered under the Medicaid Program.

As the result of a budgetary shortfall in SFY 2017, the Department now proposes to amend the provisions governing children's behavioral health services in order to terminate coverage and reimbursement of psychosocial rehabilitation services to youth. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$5,844,004 for state fiscal year 2016-2017.

Effective April 1, 2017, the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing children's behavioral health services to eliminate coverage and reimbursement for psychosocial rehabilitation services to youth.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXXIII. Behavioral Health Services**

#### **Subpart 3. Children's Mental Health Services**

#### **Chapter 23. Services**

#### **§2303. Covered Services**

A. The following behavioral health services shall be reimbursed under the Medicaid Program:

1. ...
2. rehabilitation services, including community psychiatric support and treatment (CPST);

A.3. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

#### **Chapter 27. Reimbursement**

#### **§2703. Reimbursement Methodology**

A. - A.3. ...

B. Effective for dates of service on or after April 1, 2017, coverage and reimbursement for psychosocial rehabilitation services for youth shall be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1704#004

### **DECLARATION OF EMERGENCY**

#### **Department of Health Bureau of Health Services Financing**

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Increase  
(LAC 50:V.Chapter 9)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by children's specialty hospitals to revise the reimbursement methodology and establish outlier payment provisions (*Louisiana Register*, Volume 42, Number 2).

In order to comply with the requirements of House Concurrent Resolution 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 42, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2017 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services in the Medicaid Program.

Effective May 2, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-rural, non-state inpatient hospital services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 1. Inpatient Hospital Services**  
**Chapter 9. Non-Rural, Non-State Hospitals**  
**Subchapter B. Reimbursement Methodology**  
**§953. Acute Care Hospitals**

A. - J. ...

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in LDH administrative region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

J.2. - L. ...

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either LDH administrative region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

L.2. - N.3.g. ...

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health, Bureau of Health Services Financing.

N.5. - T. ...

U. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to acute care hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

1. Small rural hospitals as defined in R.S. 40:1300 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§955. Long-Term Hospitals**

A. - D. ...

1. Qualifying Criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following LDH administrative regions:

D.1.a. - J. ...

K. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long-term hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§959. Inpatient Psychiatric Hospital Services**

A. - E. ...

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either LDH administrative region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

E.2. - K.2.b. ...

L. Effective for dates of service on or after February 10, 2012, a Medicaid-enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients, and which also assumes the operation and management of formerly state-owned and operated psychiatric hospitals/visits, shall be paid a per diem rate of \$581.11 per day.

M. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

1. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§967. Children's Specialty Hospitals**

A. - K. ...

L. Effective for dates of service on or after January 1, 2017, the inpatient per diem rates paid to children's specialty hospitals for acute, neonatal intensive care units, pediatric intensive care units and burn units' services shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

M. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to distinct part psychiatric units within children's specialty hospitals shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 37:2162, (July 2011), LR 38:2773 (November 2012), LR 39:3097 (November 2013), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended LR 40:1941 (October 2014), LR 42:275 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1704#042

## DECLARATION OF EMERGENCY

### Department of Health Bureau of Health Services Financing

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals and  
Children's Specialty Hospitals  
Reimbursement Rate Increase  
(LAC 50:V.5313, 5317, 5513, 5517,  
5713, 5719, 6115 and 6119)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.5313, 5317 and §§5513, 5517, 5713, 5719, 6115 and 6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the Code of Federal Regulation citation (*Louisiana Register*, Volume 40, Number 9).

In order to comply with the requirements of House Concurrent Resolution 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to increase the Medicaid reimbursement rates paid to non-rural, non-state

hospitals and children's specialty hospitals (*Louisiana Register*, Volume 42, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2017 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services in the Medicaid Program.

Effective May 2, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services provided by non-rural, non-state hospitals and children's specialty hospitals.

## Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part V. Hospitals

#### Subpart 5. Outpatient Hospitals

#### Chapter 53. Outpatient Surgery

#### Subchapter B. Reimbursement Methodology

#### §5313. Non-Rural, Non-State Hospitals

A. – H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### §5317. Children's Specialty Hospitals

A. – F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### Chapter 55. Clinic Services

#### Subchapter B. Reimbursement Methodology

#### §5513. Non-Rural, Non-State Hospitals

A. – H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5517. Children's Specialty Hospitals**

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **Chapter 57. Laboratory Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§5713. Non-Rural, Non-State Hospitals**

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5719. Children's Specialty Hospitals**

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **Chapter 61. Other Outpatient Hospital Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§6115. Non-Rural, Non-State Hospitals**

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees

shall be increased by 7.03 percent of the rates in effect as of December 31, 2016.

1. Final reimbursement shall be at 71.13 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§6119. Children's Specialty Hospitals**

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 7.03 percent of the rates in effect as of December 31, 2016.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1704#050

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Greater Amberjack Recreational Season Closure**

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana



state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The recreational fishery for greater amberjack in Louisiana waters will close at 12:01 a.m. on March 30, 2017 and shall remain closed until 12:01 a.m. on January 1, 2018, at which time the recreational fishery for greater amberjack will reopen. Effective with this closure, no person shall recreationally harvest or possess greater amberjack whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the recreational season for greater amberjack in Federal waters of the Gulf of Mexico off of Louisiana will close at 12:01 a.m. March 30, 2017 and remain closed until 12:01 a.m. January 1, 2018. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

Jack Montoucet  
Secretary

1704#018

#### **DECLARATION OF EMERGENCY**

##### **Department of Wildlife And Fisheries Wildlife and Fisheries Commission**

##### **Shrimp Season Opening in Portion of State Outside Waters**

In accordance with the emergency provisions of R.S. 49:953 and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, effective

March 13, 2017, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a declaration of emergency adopted by the Wildlife and Fisheries Commission on December 1, 2016 which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the Secretary hereby declares:

That state outside waters extending a distance of 3 nautical miles seaward of the inside/outside shrimp line as described in R.S. 56:495, from the northwest shore of Caillou Boca at -90 degrees 50 minutes 27 seconds west longitude westward to the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line shall reopen to shrimping at 6:00 am March 17, 2017.

Recent biological samples taken by Office of Fisheries biologists indicate that small white shrimp which have overwintered in these waters from December through the present time have reached marketable sizes and the closure is no longer necessary. Significant numbers of smaller size white shrimp still remain in State Outside Waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal at -92 degrees 18 minutes 33 seconds west longitude, and these waters will remain closed to shrimping until further notice. Notice of any opening, delaying or closing of a season by the Secretary will be made by public notice at least 72 hours prior to such action.

Jack Montoucet  
Secretary

1704#003

# Rules

## RULE

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment  
Standards and Practices—Test Security  
(LAC 28:XI.Chapter 53)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §5305, Test Security Policy; §5307, Change of District Test Coordinator Notification; §5309, Erasure Analysis; §5311, Addressing Suspected Violations of Test Security and Troubling Content in Written Responses; and §5316, Cell Phones and Other Electronic Devices. The revisions require local education agency (LEA) test security policies be reviewed once every three years, require that LEAs collect all student cell phones prior to students gaining access to secure test materials, require that all test administrators keep cell phones off while in the vicinity of secure materials, provide that test administrators may only access those electronic devices required for approved accommodations, online assessments, or to provide technical assistance during online assessments, and remove outdated procedures.

#### Title 28

#### EDUCATION

#### Part XI. Accountability/Testing

#### Subpart 3. Bulletin 118—Statewide Assessment

#### Standards and Practices

#### Chapter 53. Test Security

#### §5305. Test Security Policy

[Formerly LAC 28:CXL305]

A. - A.3.k. ...

4. Each local education agency (LEA) as described in this policy shall develop and adopt a LEA test security policy and procedures for handling emergencies during online testing that is in compliance with the state's test security policy. The LDE shall audit LEA test security policies every three years to ensure compliance with all aspects of Bulletin 118. The policy shall provide:

4.a. - 13. ...

14. School districts must ensure that individual student test data are protected from unauthorized access and disclosure.

a. The eDIRECT system is designed to be an all-inclusive testing and reporting system for grades 3-12. The system contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. LDE assigns DTCs and back-up DTCs accounts in the eDIRECT system. DTCs are responsible for entering staff into the system and assigning the appropriate permissions.

15. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic formats) and of aggregated data of fewer than 10 students.

16. LDE staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

17. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81 et seq., policy and regulations adopted by the SBESE, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7(C)(G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:747 (March 2012), LR 39:1018 (April 2013), LR 40:2510 (December 2014), LR 43:634 (April 2017).

#### §5307. Change of District Test Coordinator Notification [Formerly LAC 28:CXL307]

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. The former district test coordinator must inform the new district test coordinator of the location of placement tests, and "old" GEE testing materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 43:634 (April 2017).

#### §5309. Erasure Analysis

[Formerly LAC 28:CXL309]

A. To investigate erasures on student answer documents for the state criterion-referenced and norm-referenced testing programs, the SBESE and the LDE have developed the following procedures.

1. Scoring contractors scan every answer document for wrong-to-right erasures. The state average and standard deviation are computed for each subject at each grade level.

2. - 3.b. ...

4. Once districts, schools, and individual students have been identified, the state superintendent of education

sends letters to district superintendents stating that students in those districts have been identified as having excessive wrong-to-right erasures. Copies of the district/school and student erasure analysis reports are enclosed with the letters. Copies of the correspondence are provided to the coordinator of test security.

5. - 6. ...

7. Erasure refers to online answer changing as well as erasing answers on a paper and pencil test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 35:217 (February 2009), LR 35:443 (March 2009), LR 40:2512 (December 2014), LR 43:634 (April 2017).

**§5311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses (Constructed Responses, Short Answers, and Essays)**

**[Formerly LAC 28:CXL311]**

A - A.1.c. ...

d. The district test coordinator must then email a completed void form to the LDE, as directed in the *District and School Test Coordinators Manual*.

2. - 4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:257 (February 2007), LR 35:217 (February 2009), LR 43:635 (April 2017).

**§5316. Cell Phones and Other Electronic Devices**

**[Formerly LAC 28:CXL316]**

A. If district and school policy allows for students and personnel to carry cell phones or other similar technological devices with imaging or text-messaging capability, test administrators must collect all devices secure test materials are in the vicinity. If a student is in possession of and/or uses a cell phone or electronic device in any manner during the administration of a statewide test, the phone or electronic device will be confiscated until assurance can be evidenced that all traces of information, in print, image, or verbal form, have been removed from all local and cloud storage and that no such traces remain on the device.

1. Test administrators may have devices but they must be in the off position while around secure test materials, except for devices required for approved accommodations, online assessments, or to provide technical assistance during online assessments.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:391 (March 2006), amended LR 40:2512 (December 2014), LR 43:635 (April 2017).

Shan N. Davis  
Executive Director

1704#015

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 126—Charter Schools  
(LAC 28:CXXXIX.519, 1903, 2301, and 2303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §519, Local School Board Consideration of Charter Application, Awarding of Charters; §1903, Material Amendments for BESE-Authorized Charter Schools; §2301, State Funding; and §2303, Local Education Agency (LEA) Status and Federal Funding.

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board (OPSB). Among other things, Act 91 provides that in Orleans Parish, “each Type 3B charter school and, with the approval of the local school board, any other type of charter school under the board’s jurisdiction may act as its own local educational agency for one or more funding purposes or statutory definitions, in accordance with R.S. 17:3995, and rules adopted by the State Board of Elementary and Secondary Education.” The revisions provide the requisite rules to implement this provision. The revisions were developed in collaboration with OPSB administration.

**Title 28**

**EDUCATION**

**Part CXXXIX. Bulletin 126—Charter Schools**

**Chapter 5. Charter School Application and Approval Process**

**§519. Local School Board Consideration of Charter Application, Awarding of Charters**

A. ...

B. Local school boards may approve requests to establish a type 3B charter school pursuant to the process outlined in Bulletin 129, §505.

1. - 5. ...

6. At the time of transfer, the type 3B charter school shall have the option to remain its own local educational agency or have the local school system serve as the charter school’s local education agency. A type 3B charter school acting as its own local education agency shall comply with the requirements provided for in §2303 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2385 (August 2011), amended LR 39:3065 (November 2013), LR 39:3249 (December 2013), LR 42:1869 (November 2016), LR 43:635 (April 2017).

**Chapter 19. Amendments to BESE-Authorized Charters**

**§1903. Material Amendments for BESE-Authorized Charter Schools**

A. A material amendment to a charter is an amendment that makes substantive changes to a charter school’s governance, operational, or academic structure. Material amendments include:

1. changes in legal status or management, including the structure of the governing board, a corporate partnership, or assignment of or changes in management organization;

2. changes in grade levels served;

3. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter, applicable:

a. the superintendent of the recovery school district is authorized to amend the charter of any type 5 charter school participating in a unified enrollment system administered by the recovery school district for the purpose of adjusting student enrollment limitations;

4. changes in admission procedures or criteria, if applicable;

5. changes in any option expressed in the charter contract exhibit with respect to collective bargaining;

6. changes in LEA status for type 4 charter schools in Orleans Parish pursuant to §2303 of this bulletin; and

7. any changes to the charter contract not specifically identified as non-material amendments.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:2389 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3120 (December 2012), LR 39:3067 (November 2013), LR 40:1324 (July 2014), LR 43:635 (April 2017).

## **Chapter 23. Charter School Funding**

### **§2301. State Funding**

A. - G.3. ...

4. The LDE may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 1, 3, 3B, or 4 charter school considered its own LEA pursuant to §2303 of this Bulletin for administrative costs incurred by the LDE for providing financial oversight and monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016), LR 42:1019 (July 2016), LR 43:636 (April 2017).

### **§2303. Local Education Agency (LEA) Status and Federal Funding**

A. Any type 2 or type 5 charter school shall be considered the local education agency (LEA) for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. Type 1, 3, 3B, and 4 Charter School LEAs

1. A type 3B charter school shall have the option to remain its own LEA or have the local school board serve as the charter school's LEA, pursuant to §519 of this bulletin. A type 3B charter school considered its own LEA shall comply with the requirements for type 3B charter schools detailed in §519 of this Bulletin.

2. Pursuant to R.S. 17:10.7.1, a type 1, 3, 3B or 4 charter school located in Orleans Parish may be considered its own LEA for funding purposes and statutory definitions, and as an LEA, shall receive allocations for all available funding.

a. At all times the charter school is considered its own LEA; it shall:

i. continue participation and follow all rules of the parish-wide enrollment system or, if not currently participating, begin participation upon renewal of the charter school's charter contract, and when enrolling or registering students at the school, do so without regard to English language learner (ELL) or disability status, type or severity of disability, or level of services required;

ii. provide all identification, evaluation, and special education and ELL services to students enrolled at the school required by the Individuals with Disabilities Education Act (IDEA) and other applicable federal and state laws and regulations for LEAs;

iii. when requesting a transfer for a student with a disability, do so in accordance with IDEA and other applicable state and federal special education laws and regulations for LEAs, and only when such transfer has been initiated or agreed to by the student's parent or legal guardian;

iv. continue participation and follow all rules of the parish-wide student expulsion process, and when making a change of placement or an expulsion request for a student with a disability, do so according to such process and in compliance with the provisions of IDEA and other applicable federal and state special education laws and regulations for LEAs;

v. provide transportation services for students as required by applicable state laws and regulations, the school's charter contract, and local school board policy;

vi. comply with all financial, testing, and reporting requirements required by the charter school's authorizer or the department pursuant to applicable federal, state, and local laws and regulations; and

vii. comply with any monitoring, reporting, or corrective actions required by the school's charter authorizer or the department related to the requirements of this Section and any other applicable federal, state, or local laws or regulations for LEAs.

b. For type 1 and 3 charter schools in Orleans Parish, the local superintendent shall implement a process to identify those schools requesting to be considered their own LEAs for the 2017-18 school year. The local superintendent shall also implement a process to identify these schools in future years either on an annual basis for all type 1, 3, or 3B charter schools, or in conjunction with the initial authorization of new charter schools and renewal of existing charter schools. LEA status shall commence on July 1 following receipt by the state superintendent of written notification from the local superintendent no later than the preceding April 1. Such written notification shall include:

i. documentation of the local school board's approval of the charter school to be considered its own LEA;

ii. written certification by the president or chairman of the board of the charter school that at all times the charter school is considered its own LEA it shall comply with the requirements of this Section; and

iii. a letter of attestation signed by the local superintendent, certifying that the requirements listed in this section shall be incorporated into the charter school's contract, and the local superintendent's oversight,

evaluation, and renewal determination processes for the charter school.

c. A type 4 charter school in Orleans Parish may be considered its own LEA upon request by the local school board and approval by BESE. The local school board may request LEA status for a type 4 charter school no later than the April 1 preceding the year in which LEA status would commence through any one of the following procedures:

i. inclusion of the request for the charter school to be considered its own LEA in the initial charter application to BESE;

ii. submission of a request to BESE for a material amendment to the charter to permit the charter school to be considered its own LEA pursuant to §1903 of this Bulletin; or

iii. written request for the charter school to be considered its own LEA as part of BESE's renewal of the school's charter.

d. Each type 1, 3, 3B, and 4 charter school in Orleans Parish that is considered its own LEA shall be held solely responsible for the requirements of this section and any other applicable federal, state, or local laws or regulations related to the charter school's LEA status, including, but not limited to data reporting, testing regulations, IDEA compliance, title I regulations, and requirements of other grants made available and secured by the charter school in its capacity as an LEA. However, each type 1, 3, 3B or 4 charter school considered its own LEA is under the jurisdiction of the Orleans Parish School Board and as such, the local superintendent shall have the duty, obligation and authority to monitor and enforce corrective actions and interventions related to the requirements of this section and any other applicable federal, state, or local laws or regulations for such charter school. Based on evidence of noncompliance with any such requirements, laws, or regulations, or that the continuation of LEA status for the charter school may result in a threat to the health, safety, or welfare of students or staff at the charter school, the local superintendent may submit a written request to the state superintendent for rescission of the charter school's LEA status.

e. The local superintendent and the department shall work together to coordinate each entity's reporting requirements for a charter school considered its own LEA in order to streamline and minimize duplication of reporting by the charter school.

3. The state superintendent may rescind the LEA status of a type 1, 3, 3B or 4 charter school at the beginning of a subsequent school year (July 1) should the charter school fail to meet the requirements of this Section or other requirements related to LEA status. Prior to such rescission, the state superintendent shall provide written notification of the rescission to the local school board and the charter school no later than April 1. Such written notification shall include the reason for the rescission and a date by which the local school board and charter school may respond prior to rescission.

4. In situations where continued LEA status for the charter school may result in a threat to the health, safety, or welfare of students or staff at the charter school, the state superintendent may temporarily rescind the charter school's LEA status immediately, without prior written notification.

In such a case, the state superintendent shall be required to provide written notification to the local school board and the charter school of the temporary rescission as soon as is feasible. Such written notification shall include the reason for the temporary rescission and a date by which the local school board and charter school may respond prior to permanent rescission of the charter school's LEA status.

5. Upon rescission, the local school board shall begin to serve as the charter school's LEA. The state superintendent may reinstate the charter school's LEA status at the beginning of a subsequent school year (July 1) provided the local school board approves such reinstatement and the state superintendent has determined that the charter school has demonstrated the ability to comply with all applicable requirements henceforth.

6. With the local school board's approval, a type 1, 3, 3B, or 4 charter school considered its own LEA may voluntarily request to relinquish its LEA status. The state superintendent may only approve such request following receipt of the charter school's request and the local school board's approval by April 1. Upon approval by the state superintendent, the local school board shall begin to serve as the charter school's LEA at the beginning of the following school year (July 1).

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:636 (April 2017).

Shan N. Davis  
Executive Director

1704#016

## RULE

### Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center  
Licensing Regulations (LAC 28:CLXI.103 and 1711)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §103, Definitions; and §1711, Child-to-Staff Minimum Ratios. In order to meet federal child care development fund (CCDF) requirements and to embed standards within the state plan for Louisiana, the state of Louisiana must establish standards for child group sizes and child-to-provider ratios. Therefore, these revisions are necessary in order to require early learning centers to meet appropriate ratios between the number of children and the number of providers and group size, in terms of the age of the children for each type of setting.

**Title 28  
EDUCATION**

**Part CLXI. Bulletin 137—Louisiana Early Learning  
Center Licensing Regulations**

**Chapter 1. General Provisions**

**§103. Definitions**

\* \* \*

*Group Size*—the number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.31 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017).

**Chapter 17. Minimum Staffing Requirements and Standards**

**§1711. Child-to-Staff Minimum Ratios**

A. - M. ...

N. Maximum Group Size

1. Type II and Type III

Age of Children	Maximum Group Size
Infants under 1 year	15
1 year	21
2 years	22
3 years	26
4 years	30
5 years	38
6 years and up	46

2. Type I

Age of Children	Maximum Group Size
Infants under 1 year	18
1 year	24
2 years	24
3 years	28
4 years	32
5 years	40
6 years and up	50

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.40(A)(3).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017).

Shan N. Davis  
Executive Director

1704#017

**RULE**

**Tuition Trust Authority  
Office of Student Financial Assistance**

Achieving a Better Life Experience (ABLE) Program  
(LAC 28:VI.Chapter 5)

The Louisiana Tuition Trust Authority has amended its administrative rules (R.S. 17:3091 et seq.). (ST17144R)

**Title 28  
EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Subchapter A. Tuition Trust Authority**

**Chapter 5. Achieving a Better Life Experience  
(ABLE)**

**§501. General Provisions**

A. The Louisiana Achieving a Better Life Experience (ABLE) Account Program was enacted in 2014 to provide a program of savings to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities in endeavors to maintain health, independence, and quality of life. The purposes of the program include all of the following:

1. to pay qualified disability expenses so that persons with disabilities may maintain health, independence, and quality of life;

2. to provide secure funding for disability-related expenses on behalf of designated beneficiaries that will supplement, but not supplant, benefits provided through private insurance, the medical assistance program administered by this state in accordance with title XIX of the Social Security Act, the Supplemental Security Income Program under title XVI of such Act, the beneficiary's employment, and other sources;

3. to comply fully with all provisions of the Stephen Beck, Jr., ABLE Act of 2014 (Public Law 113-295, Division B), and all regulations issued pursuant thereto.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3081-3089.

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:638 (April 2017).

**§503. Legislative Authority**

A. The Louisiana ABLE Act is established by Act 604 of the 2016 Regular Session of the Louisiana Legislature, 22-A, title 17 of the *Louisiana Revised Statutes* (R.S. 17:3081-3089).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3081-3089.

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:638 (April 2017).

**§505. Program Administration**

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Board of Regents, plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and Senate.

B. The LATTA administers the ABLE Account Program through the Board of Regents, Office of Student Financial Assistance (LOSFA).

C. LOSFA, a program under the Board of Regents, performs the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the ABLE account program under the direction of the LATTA.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:638 (April 2017).

#### **§507. Applicable Definitions**

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

*Account Owner*—the eligible individual who opened the account and who is also the beneficiary.

*Administrator*—the individual who has the authority to direct the activities of the account. The administrator of the account may be the account owner or a person authorized by law or by authentic act to administer the account on behalf of the beneficiary. For purposes of these rules, the term administrator shall mean the account owner or a person who is legally authorized to act on his behalf.

*Beneficiary*—the eligible individual who established ABLE account, or for whom an ABLE account was established, and who is the owner of such account.

*Current Value*—the value of an ABLE account at a given point in time.

a. The current value of fixed earnings investment options includes the accumulated value of the principal deposited and earnings on deposits.

b. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit. This value may be more or less than the amount originally deposited.

*Deposits*—the actual amount of money received for deposit for investment in an ABLE account. Deposits do not include earnings on deposits.

*Eligible Individual*—an individual is an eligible individual for a given tax year if one of the following is met:

a. the individual is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained age 26; or

b. a disability certification with respect to such individual is filed with the secretary for such taxable year.

*False or Misleading Information*—a statement or response made by a person which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

*Fixed Earnings*—the placement of all deposits in an ABLE account, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

*Louisiana Board of Regents*—the agency of state government responsible for administering the ABLE account program under the direction of the Tuition Trust Authority.

*Louisiana Resident*—

a. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

i. if registered to vote, is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, has complied with state income tax laws and regulations;

b. a member of the Armed Forces stationed outside of Louisiana who claims Louisiana on his/her official DD Form 2058 as his/her legal residence for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation;

c. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

d. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements.

*Louisiana Tuition Trust Authority (LATTA)*—the statutory body responsible for the administration of the ABLE Account Program.

*Maximum Allowable Account Balance*—500,000.

*Member of Family*—an individual who is the brother, sister, stepbrother, stepsister, half-brother, or half-sister to the beneficiary, including an adopted brother, sister, stepbrother, stepsister, half-brother, or half-sister.

*Natural Person*—a human being.

*Office of Student Financial Assistance (LOSFA)*—a program under the Board of Regents, performs the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the ABLE account program as directed by LATTA and the Board of Regents.

*Other Person* (with respect to any designated beneficiary)—any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

*Owner's Agreement*—the agreement for program participation that the account owner or administrator completes and signs. It incorporates, by reference, R.S. 17:3081 et seq., and the rules promulgated by the LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

*Person*—a human being or a juridical entity.

*Qualified Disability Expenses (QDEs)*—expenses that relate to the blindness or disability of the designated beneficiary in maintaining or improving his or her health, independence, or quality of life. QDEs may, but need not, benefit only the disabled individual. QDEs include, but are not limited to, expenses related to the beneficiary's:

- a. education;
- b. housing;
- c. transportation;
- d. employment training and support;
- e. assistive technology and related services;

- f. personal support services;
- g. health, prevention, and wellness;
- h. financial management and administrative services;
- i. legal fees;
- j. expenses for oversight and monitoring;
- k. funeral and burial expenses; and
- l. other expenses which may be identified by the Internal Revenue Service.

**Redemption Value**—the cash value of the money in an ABLE Account invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by the LATTA, less any disbursements and refunds. Redemption value is not applicable to an ESA invested in variable earnings.

**Refund Recipient**—the person designated in the ABLE account program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner, his heirs, or his estate.

**Trade Date**—the date that a deposit to an investment option that includes variable earnings is assigned a value in units, the date a disbursement or refund from an investment option that includes variable earnings is assigned a value, or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

**Variable Earnings**—refers to that portion of funds in an ABLE account invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3081-3089.

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:639 (April 2017).

### **§509. Establishment of an ABLE Account**

A. An ABLE account is established by or on behalf of an eligible individual to provide the funding necessary for qualified disability expenses (QDEs).

B. Only one ABLE account may be established for an eligible individual, whether the account is established in Louisiana or with another ABLE program.

C. The eligible individual must be a *Louisiana resident* as defined in §507 and must meet the following citizenship requirements:

- 1. be a United States citizen; or
- 2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or
- 3. be lawfully residing in the United States and have a valid Social Security number.

D. An ABLE account may be established by the account owner or an administrator who is authorized by law or by authentic act to administer the account on behalf of the account owner.

1. An administrator who is not the account owner may establish an account on behalf of an eligible individual upon provision of documentation to LOSFA evidencing that person has the legal right to act on behalf of the eligible individual.

2. Documentation required to establish an account on behalf of an eligible individual includes:

- a. if a parent, a copy of the eligible individual's birth certificate;
- b. if an adoptive parent, documentation evidencing the adoption of the eligible individual;
- c. if a custodian, court documents evidencing the appointment of the custodian by a court of law;
- d. if designated by the eligible individual to administer his affairs, documentation evidencing such designation.

E. Program Enrollment Period. An account may be established at any time during the calendar year.

#### **F. Completing the Owner's Agreement**

1. This agreement must be completed and signed by the administrator.

2. The administrator who is also the account owner may designate a limited power of attorney to an administrator who would be authorized to act on his behalf in the event the account owner becomes incapacitated.

3. The administrator must certify:

- a. that the person for whom the account is being established is an *eligible individual* as defined in §507;
- b. that the eligible individual is a Louisiana resident;
- c. that the eligible individual meets the citizenship requirements set forth in §509.B;
- d. that if he is not the eligible individual, that he is authorized by law or by authentic act to open and administer the ABLE account on behalf of the eligible individual;
- e. that he will provide the documentation necessary to establish the certifications made for Subsections D.2.a-d upon request by LOSFA or the Internal Revenue Service; and
- f. that he has read and understands the owner's agreement and participation materials.

4. The administrator agrees to the following terms when completing the account owner's agreement.

a. All transactions involving the ABLE account will be reported to the Social Security Administration on a monthly basis.

b. Fees

i. Except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account.

ii. Fees imposed by investment institutions for opening or maintenance of variable earnings accounts may be charged to the account owner.

c. Financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

d. Only the account owner, his heirs, or his estate may be designated to receive refunds from the ABLE account. In the event of the death of the account owner when the account owner is designated to receive the refund, the refund shall be made to the account owner's estate.

#### **G. Acceptance of the Owner's Agreement**

1. A properly completed and submitted owner's agreement will be reviewed within 48 hours of receipt for completeness. If additional information is required to accept



the owner's agreement, the Administrator will be contacted to provide that information.

2. Upon acceptance of the owner's agreement, the LATTA will establish the ABLE account.

H. Providing Personal Information

1. The administrator is required to disclose personal information regarding the eligible individual, including:

- a. his Social Security number;
- b. his date of birth; and
- c. his relationship to the administrator.

2. If not the eligible individual, the administrator will be required to disclose the following information:

- a. his relationship to the eligible individual;
- b. if a parent of the eligible individual, his Social Security number.

3. The eligible individual's Social Security number and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting to access individual account information for administrative purposes, and to provide necessary reports to the Social Security Administration.

4. The following protected health information is collected only for IRS reporting purposes:

- a. basis for the eligible individual's eligibility:
  - i. code A—Social Security disability Income—title II SSA;
  - ii. code B—Social Security income—title XVI SSA;
  - iii. code C—eligible individual is the subject of a disability certification filed with the IRS for 2016;
- b. type of disability:
  - i. code 1—developmental disorders, including autistic spectrum disorder, Asperger's disorder, development delays, learning disabilities;
  - ii. code 2—intellectual disability. May be reported as mild, moderate or severe intellectual disability;
  - iii. code 3—psychiatric disorders, including schizophrenia, major depressive disorder, post-traumatic stress disorder (PTSD), anorexia nervosa; attention deficit/hyperactivity disorder (AD/HD), bipolar disorder;
  - iv. code 4—nervous disorders, including blindness, deafness, cerebral palsy, muscular dystrophy, spina bifida, juvenile-onset Huntington's disease, multiple sclerosis, severe sensorineural hearing loss, congenital cataracts;
  - v. code 5—congenital anomalies: chromosomal abnormalities, including down syndrome, osteogenesis imperfecta, xeroderma pigmentosum, spinal muscular atrophy, fragile X syndrome, Edwards syndrome;
  - vi. code 6—respiratory disorders: cystic fibrosis;
  - vii. code 7—other: includes tetralogy of fallot, hypoplastic left heart syndrome, end-stage liver disease, juvenile-onset rheumatoid arthritis, sickle cell disease, hemophilia; and any other disability not listed under codes 1-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:640 (April 2017).

## **§511. Deposits to ABLE Accounts**

### **A. Application Fee and Initial Deposit Amount**

1. No application fee will be charged to those applying for an ABLE account on behalf of an eligible individual.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See fees in §509.F.4).

3. An initial deposit is not required to open an ABLE account; however, a deposit of at least \$10 must be made within 180 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the maximum allowable account balance (\$500,000).

### **B. Deposit Options**

1. The administrator shall select one of the following deposit options during the completion of the owner's agreement; however, the administrator may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

- a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA-approved investment institution;
- b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;
- c. automatic account debit, direct monthly transfer from the Administrator's checking or savings account to the LATTA or a LATTA-approved investment institution;
- d. payroll deduction, if available through the Administrator's employer.

### **C. Limitations on Deposits**

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §511.B.1.

2. Once the cumulative contributions and earnings on contributions have reached or exceeded the maximum allowable account balance, principal deposits will no longer be accepted to the account until a distribution is made which reduces the account balance below the maximum allowable account balance.

3. ABLE account balances of up to \$100,000 will not affect Social Security income (SSI) benefits. However, once an account exceeds \$100,000, SSI benefits will be suspended until such time as the balance is reduced below \$100,000.

### **D. Investment Options**

1. The state treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The administrator shall select the investment option for the ABLE account at the time the account is opened. The administrator may select the same or a different investment option at the time of each deposit.

#### **4. Changing the Investment Option**

a. The administrator may change the investment options no more than two times in a calendar.

b. If an ABLE account has funds in two or more investment options.

- i. Each option in the account may be changed to one different option or allowed to remain the same.
- ii. All funds in each option changed must be transferred.
- iii. Funds in one option may not be moved to more than one option.
- iv. All changes in investment options must take place in one transaction.
- v. Whether the funds are moved from one option or all options, the change is considered one of the two allowed investment option changes per calendar year.
- c. Once a selection is made, all deposits shall be directed to the last investment option selected.

#### E. Effective Date of Deposits

- 1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.
- 2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.
  - a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.
  - b. Deposits made by electronic funds transfer through the automated clearing house (ACH) network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.
  - c. Deposits made by all other means of electronic funds transfer, including deposits made by transferring funds from a variable earnings option in which they are currently deposited to another option, will be assigned a trade date of one business day after the business day during which they were received.
- 3. Deposits for investment options that include variable earnings which are received via check or electronic funds transfer through the automated clearing house network will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the variable earnings transaction fund.
- 4. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:641 (April 2017).

### **§513. Disbursement of Account Funds for Payment of QDEs**

- A. Request for Disbursement
  - 1. An ABL account administrator may request a disbursement at any time, but no more than twice per month.
  - 2. The request for disbursement must include:
    - a. the ABL account number;
    - b. the eligible Individual's name, address, and Social Security number;
    - c. the administrator's signature (may be electronic); and
    - d. the amount to be disbursed.
  - 3. Requests for disbursements must be in whole dollar increments, must be no less than \$200 and may be no more than the account balance.

4. In the event funds are invested in more than one investment option, the disbursement shall be made proportionally from each investment option in the account.

5. Disbursements will be made only to the administrator of the account.

6. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

#### B. Rate of Expenditure

1. The amount to be disbursed from an account shall be drawn from deposits and interest in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The administrator may not withdraw an amount in excess of the QDEs of the eligible individual or the value of the account, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017).

### **§515. Effect on Federal and State Assistance Programs**

A. For the purpose of determining eligibility to receive, or the amount of, any assistance or benefit which may be received by the ABL account owner by a means-tested federal assistance program, the following amounts shall be disregarded with respect to any period during which the beneficiary maintains his status as an eligible individual:

- 1. any amount, including earnings thereon, up to \$100,000;
- 2. any contributions to the ABL account of the eligible Individual;
- 3. any distributions from the account of the eligible individual, provided that such distributions are made for the purchase or payment of QDEs, subject to determination by the Social Security Administration that such distributions do not exceed allowable assets/income for a given period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017).

### **§517. Termination, Refund, and Rollovers of an Education Savings Account**

#### A. Account Termination

- 1. The administrator may terminate an ABL account at any time.
- 2. In the event the person for whose benefit the account was opened is no longer an *eligible individual* as defined in §507, the administrator shall
  - a. terminate the account; or
  - b. transfer the account to another eligible individual who is also a member of the family of the original eligible Individual within 60 days of the determination that the original eligible individual is no longer qualified.
- 3. The LATTA may terminate an account as follows.
  - a. If LATTA determines that funds have been disbursed for expenses other than QDEs, LATTA may require the return of the funds to the ABL account. If funds are not returned to the account within 60 days of a request to do so, LATTA, in its sole discretion, may refund any balance remaining and close the account.

b. The LATTA may terminate an account if no deposit of at least \$10 has been made within 180 days from the date of notification of approval of the account.

c. The LATTA may terminate an account if the eligible individual for whom the account was opened no longer meets the criteria to be an eligible individual and a new eligible individual is not named within 60 days.

d. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided false or misleading information (see §507).

i. If the LATTA terminates an owner's agreement under this Subsection, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

ii. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

#### B. Refunds

1. Requests for refund may result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than 12 months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, if the account has been open for less than 12 months;

d. the current value of an account invested in variable earnings, if the account has been open for 12 or more months.

2. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the request.

C. Designation of a Refund Recipient. The refund recipient can only be the account owner, his heirs, or his estate, and the administrator shall designate the refund recipient when completing the owner's agreement.

#### D. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the ESA at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

E. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

F. Refund Payments. Payment of refunds for voluntary termination under §515.D shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the calendar year preceding the year in which the request to terminate an account is made. Interest earned in excess of \$10 during the calendar year of termination will be refunded within 45 days of the date the state treasurer announces the interest rate for the preceding calendar year. Interest earned of \$10 or less during the calendar year of termination will be forfeited.

#### G. Rollovers

1. Rollovers to another ABLE Account Administered by LOSFA

a. An administrator may rollover any part of an ABLE account to ABLE account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. The current value of the account from which the rollover is made will be transferred to the new account.

#### 2. Rollover to another ABLE Program

a. An administrator may request a rollover of the current value of the account to another qualified tuition program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017).

### §519. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an ESA may be changed to a substitute beneficiary provided the account owner completes a beneficiary substitution form and the following requirements are met:

1. the substitute beneficiary is a member of the family as defined under §107;

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §301.G).

B. Substitution/Transfer of Account Ownership. The administrator may transfer ownership of an ABLE account only with the written approval of the LATTA and only to a member of the family of the eligible individual for whom the account was opened.

C. Assignment of Account Ownership. Ownership of an ESA cannot be assigned.

#### D. Changes to the Owner's Agreement

1. The administrator may request changes to the owner's agreement.

2. Changes must be requested in writing and be signed by the administrator.

3. Changes, if accepted, will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the administrator.

5. The administrator will be notified by the LATTA of any changes affecting the owner's agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017).

### §521. Miscellaneous Provisions

#### A. Account Statements and Reports

1. The LATTA will forward to each administrator an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year; and

b. total principal and interest accrued to the statement date.

2. The administrator must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

#### B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to administrators after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

#### C. Refunded Amounts

1. Interest earned on an ABLE account which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the state Department of Revenue, the Social Security Administration, the Internal Revenue Service, and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form and/or manner of reporting is appropriate according to the applicable entity.

D. Rule Changes. The LATTA reserves the right to amend the rules regulating the Louisiana ABLE Account Program policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act.

E. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

F. Individual Accounts. The LATTA will maintain an individual account for each beneficiary showing the redemption value of the account.

G. Confidentiality of Records. All records of the LATTA identifying Administrators and/or account owners of ABLE accounts, amounts deposited, expended or refunded, are confidential and are not public records.

H. No Investment Direction. No administrator may direct the investment of funds credited to an account, except to select investment options no more than twice per year. Deposits will be invested on behalf of the Louisiana ABLE Account Program by the state treasurer.

I. No Pledging of Interest as Security. No interest in an ABLE account may be pledged as security for a loan.

#### J. Excess Funds

1. Principal deposits will no longer be accepted once the account total reaches the maximum allowable account balance (see §507); however, the account will continue to earn interest.

2. Funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be disbursed in accordance with §309, or will be refunded in accordance with §311 upon termination of the account.

K. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §513 and §515.

#### L. NSF Procedure

1. A check received for deposit to an ABLE account which is returned due to insufficient funds in the owner's

account on which the check is drawn, will be redeposited and processed a second time by the Louisiana ABLE Account Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer which is not honored by the financial institution on which it was drawn subsequent to the trade date shall be forfeited by the account owner.

M. Effect of a Change in Residency. On the date an account is opened, either the account owner must be a resident of the state of Louisiana; however, if the account owner temporarily or permanently moves to another state after the account is opened, he may continue participation in the program in accordance with the terms of the owner's agreement.

N. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

O. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017).

Robyn Rhea Lively  
Senior Attorney

1704#010

## RULE

### Office of the Governor Board of Architectural Examiners

Professional Architectural Corporations,  
Architectural-Engineering Corporations, and  
Architectural Firms (LAC 46:I.Chapter 17)

In accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), the Board of Architectural Examiners has amended LAC 46:I.Chapter 17 pertaining to its regulation of professional architectural corporations (LAC 46:I.1701), architectural-engineering corporations (LAC 46:I.1703), and architectural firms (LAC 46:I.1705), and other architectural firms offering to practice or practicing architecture in Louisiana. The board presently regulates professional architectural corporations, architectural-engineering corporations, and limited liability companies only. During the 2012 Legislative Session, the Legislature enacted Act 514 of 2012 (now R.S. 37:158). This Act authorizes the board to regulate all domestic and foreign firms practicing or offering to practice architecture in the state of Louisiana. Under the Rule, a professional architectural corporation and an architectural-engineering corporation may continue to practice architecture in Louisiana as authorized by the Professional Architectural Corporations Law, R.S. 12:1086 et seq., and the architectural-engineering corporations law, R.S. 12:1171 et seq., as they have practiced in the past (see §§1701 and 1703). In addition, such firms, limited liability companies,

and other architectural firms may seek to obtain certificates of authority and to practice architecture in Louisiana as an architectural firm under the requirements of proposed §1705. The intent of the Rule is for the board to regulate all architectural firms offering to practice or practicing architecture in Louisiana and establish a level playing field for all such firms. The effective dates of the Rule are contained in §1707.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part I. Architects**

### **Chapter 17. Professional Architectural Corporations, Architectural-Engineering Corporations, and Architectural Firms**

#### **§1701. Professional Architectural Corporations**

A. The practice of architecture in Louisiana by a professional architectural corporation is permissible when such corporation is lawfully constituted under the professional architectural corporations law, R.S. 12:1086 et seq., and it obtains a certificate of authority from the board authorizing it to so practice.

B. A person seeking a certificate of authority for a professional architectural corporation to practice architecture in Louisiana shall obtain an application from the board website, [www.lastbdarchs.com](http://www.lastbdarchs.com). The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and the fee described below, the board shall either approve said application and issue a certificate of authority to the professional architectural corporation, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.

C. The fee for obtaining an initial certificate of authority for a resident professional architectural corporation is \$75. The fee for obtaining an initial certificate of authority for a non-resident professional architectural corporation is \$150.

D. Architectural services rendered on behalf of a professional architectural corporation must be performed by or under the responsible supervision of one or more natural person(s) duly licensed to practice architecture in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of §1313 of this Part are fully satisfied.

E. The architects licensed in this state who perform or directly supervise the performance of architectural services on behalf of a professional architectural corporation are responsible to the board for all of the acts and conduct of such corporation.

F. It shall be the responsibility of the directors of a professional architectural corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines set forth in R.S. 37:153 and/or R.S. 37:154 against the professional architectural corporation and the directors.

Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of:

1. the certificate of authority issued to the professional architectural corporation; and
2. the license of the directors.

G. A professional architectural corporation holding a certificate of authority and desiring to continue offering architectural services shall make application for renewal each year on or prior to June 30 by downloading a renewal form from the board website, [www.lastbdarchs.com](http://www.lastbdarchs.com). Upon receipt of the completed application and the fee described below prior to June 30, a renewal certificate will be issued.

H. The fee for renewing a certificate of authority for a resident professional architectural corporation is \$75. The fee for renewing a certificate of authority for a non-resident professional architectural corporation is \$150.

I. The failure of a professional architectural corporation to renew its certificate of authority on or before June 30 shall not deprive such corporation of the right of renewal thereafter, provided it pays a delinquent fee to the board. The delinquent fee to be paid upon the renewal of a certificate of authority by a resident professional architectural corporation is \$75. The delinquent fee to be paid upon the renewal of a certificate of authority by a non-resident professional architectural corporation is one \$150. This delinquent fee shall be in addition to the renewal fee set forth in the preceding paragraph.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:144.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:571 (April 2003), amended LR 43:645 (April 2017).

#### **§1703. Architectural-Engineering Corporations**

A. The practice of architecture in Louisiana by an architectural-engineering corporation is permissible when such corporation is lawfully constituted under the architectural-engineering corporations law, R.S. 12:1171 et seq., and it obtains a certificate of authority from the board authorizing it to so practice.

B. A person seeking a certificate of authority for an architectural-engineering corporation to practice architecture in Louisiana shall obtain an application from the board website, [www.lastbdarchs.com](http://www.lastbdarchs.com). The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and the fee described below, the board shall either approve said application and issue a certificate of authority to the architectural-engineering corporation, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.

C. The fee for obtaining an initial certificate of authority for a resident architectural-engineering corporation is \$75. The fee for obtaining an initial certificate of authority for a non-resident architectural-engineering corporation is one \$150.

D. Pursuant to R.S. 12:1173, the architectural-engineering corporation shall designate in its application for certificate of authority one or more supervising professional architect(s) who shall perform or directly supervise the performance of all architectural services by said corporation in Louisiana. Performing or directly supervising the performance of all architectural services shall mean

unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of §1313 of this Part are fully satisfied. Only natural persons:

1. who are licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158;
2. who are full-time active employees of the architectural-engineering corporation; and
3. whose primary occupation is with the architectural-engineering corporation may be designated as a supervising professional architect.

E. The architects licensed in this state who perform or directly supervise the performance of architectural services on behalf of an architectural-engineering corporation are responsible to the board for all of the acts and conduct of such corporation.

F. It shall be the responsibility of the designated supervising professional architect(s) of an architectural-engineering corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines set forth in R.S. 37:153 and/or R.S. 37:154 against the architectural-engineering corporation and the designated supervising professional architect(s). Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of:

1. the certificate of authority issued to the architectural-engineering corporation; and
2. the license of the designated supervising professional architect(s).

G. An architectural-engineering corporation holding a certificate of authority and desiring to continue offering architectural services shall make application for renewal each year on or prior to June 30 by downloading a renewal form from the board website, [www.lastbdarchs.com](http://www.lastbdarchs.com). Upon receipt of the completed application and the fee described below on or prior to June 30, a renewal certificate will be issued.

H. The fee for renewing a certificate of authority for a resident architectural-engineering corporation is \$75. The fee for renewing a certificate of authority for a non-resident architectural-engineering corporation is \$150.

I. The failure of an architectural-engineering corporation to renew its certificate of authority on or before June 30 shall not deprive such corporation of the right of renewal thereafter, provided it pays a delinquent fee to the board. The delinquent fee to be paid upon the renewal of a certificate of authority by a resident professional architectural corporation is \$75. The delinquent fee to be paid upon the renewal of a certificate of authority by a non-resident architectural-engineering corporation is \$150. This delinquent fee shall be in addition to the renewal fee set forth in the preceding paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:571 (April 2003), amended LR 43:645 (April 2017).

## §1705. Architectural Firms

A. For purposes of this rule, the term *architectural firm* shall mean a corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of practicing architecture.

B. The practice of architecture in Louisiana by an architectural firm is only permissible when such firm is lawfully constituted under the laws of Louisiana or under the laws of some other lawful jurisdiction for the purpose of practicing architecture, and it complies with all of the requirements of this rule.

C. Except as provided *infra* in this rule, no architectural firm shall solicit, offer, execute, or perform architectural services in Louisiana without first receiving a certificate of authority from the board authorizing it to do so.

D. An architectural firm soliciting, offering, contracting to perform, or performing the practice of architecture in Louisiana shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

E. A person seeking a certificate of authority for an architectural firm to practice architecture in Louisiana shall obtain an application from the board website, [www.lastbdarchs.com](http://www.lastbdarchs.com). The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and the fee described below, the board shall either approve said application and issue a certificate of authority to the architectural firm, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.

F. The fee for obtaining an initial certificate of authority for a resident architectural firm is \$75. The fee for obtaining an initial certificate of authority for a non-resident architectural firm is \$150.

G. The architectural firm shall designate in its application for certificate of authority one or more supervising professional architects who shall perform or directly supervise the performance of all architectural services by said firm in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of §1313 of this Part are fully satisfied. Only natural persons:

1. who are licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158;
2. who are full-time active employees of the architectural firm; and
3. whose primary occupation is with the architectural firm may be designated as a supervising professional architect.

H. When the architectural firm designates an architect as a supervising professional architect, the architectural firm authorizes that architect to appear for and act on behalf of

the firm in connection with the execution and performance of contracts to provide architectural services.

I. An architectural firm may practice architecture in Louisiana only as long as it employs a designated supervising professional architect who complies with §1705.F above. If the architectural firm designates only one architect as the supervising professional architect and that architect ceases being a full-time active employee of the architectural firm on a primary basis, the authority of such firm to practice architecture in Louisiana is suspended until such time as the firm designates another supervising professional architect pursuant to §1705.F above.

J. The architect(s) designated as the supervising professional architect(s) of the architectural firm is responsible to the board for all of the acts and conduct of the architectural firm.

K. The supervising professional architect(s) of the architectural firm shall advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines described in R.S. 37:153 and/or R.S. 37:154 against the architectural firm and the designated supervising professional architect(s). Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of:

1. the certificate of authority issued to the architectural firm; and
2. the license of the designated supervising professional architect(s).

L. A corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of offering a combination of architectural services together with construction services (i.e., a design/build firm), must obtain a certificate of authority from the board as set forth in this rule and also comply with §1319 of this Part.

M. A joint venture practicing architecture in Louisiana shall not be required to obtain a certificate of authority from the board; however, all architectural firms practicing architecture in Louisiana as members of a joint venture are required to obtain a certificate of authority and otherwise comply with this rule.

N. A non-resident architectural firm associated within the meaning of §1317 of this Part with a resident architect or architectural firm for a specific and isolated project is not required to obtain a certificate of authority from the board, provided the resident architect is licensed in Louisiana or the resident architectural firm has obtained a certificate of authority from the board.

O. A sole proprietorship practicing architecture in Louisiana in the name of an individual registered with the board is not required to obtain a certificate of authority to practice architecture in Louisiana. A sole proprietorship practicing architecture in Louisiana under some name other than the name of an individual registered with the board is required to obtain a certificate of authority from the board.

P. A non-resident architectural firm retained by a Louisiana architect as a consultant only is not required to obtain a certificate of authority from the board.

Q. The architectural firm shall satisfy all of the requirements of the Louisiana secretary of state for doing business in this state.

R. An architectural firm holding a certificate of authority and desiring to continue offering architectural services in Louisiana shall make application for renewal each year on or prior to June 30 by downloading a renewal form from the board website, [www.lastbdarchs.com](http://www.lastbdarchs.com). Upon receipt of the completed application and the renewal fee described below on or prior to June 30, a renewal certificate will be issued.

S. The fee for renewing a certificate of authority for a resident architectural firm is \$75. The fee for renewing a certificate of authority for a non-resident architectural firm is \$150.

T. The failure of an architectural firm to renew its certificate of authority on or before June 30 shall not deprive it of the right of renewal thereafter, provided it pays a delinquent fee to the board. The delinquent fee to be paid upon the renewal of a certificate of authority by a resident architectural firm is \$75. The delinquent fee to be paid upon the renewal of a certificate of authority by a non-resident architectural firm is \$150. This delinquent fee shall be in addition to the renewal fee set forth in the preceding paragraph.

U. Rules regulating the names of architectural firms are contained in Chapter 15 *supra*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:572 (April 2003), amended LR 43:646 (April 2017).

#### **§1707. Effective Date**

A. Any license or certificate of authority issued by the board to a professional architectural corporation, architectural-engineering corporation, or limited liability company for the period ending June 30, 2017, shall expire no later than such date, and the rules in existence at the time such license or certificate is issued shall apply to the practice of architecture by such firm.

B. These rules shall apply to any professional architectural corporation, architectural-engineering corporation, or architectural firm seeking to obtain an initial certificate of authority from the board to practice architecture in Louisiana, or to renew any such certificate, for the period after July 1, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, amended LR 43:647 (April 2017).

Kathy Hillegas  
Executive Director

1704#012

## RULE

### Office of the Governor Board of Examiners of Certified Shorthand Reporters

#### Applications for Examinations (LAC 46:XXI.301)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Examiners of Certified Shorthand Reporters has amended the CDR examinations rule.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 3. Examinations

##### §301. Applications for Examinations

A. - F. ...

G. A certified digital reporter (CDR) applicant who is eligible as an official or deputy official reporter will be scheduled for an examination to be given by a designee of the education or examination committee chair. The examination will not be administered for an individual CDR applicant more frequently on an annual basis than the number of examinations scheduled each year by the board in accordance with Subsection A of this Section. A certified digital reporter applicant is not subject to the qualifying exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2555(F).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR 19:1537 (December 1993), LR 27:183 (February 2001), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters LR 29:1086 (July 2003), LR 35:64 (January 2009), LR 37:3512 (December 2011), LR 43:648 (April 2017).

Judge Paul A. Bonin  
Chairman

1704#023

## RULE

### Office of the Governor Division of Administration Tax Commission

#### Ad Valorem Taxation

(LAC 61:V.101, 111, 121, 203, 213, 303, 304,  
703, 901, 907, 1103, 1307, 1503, 1701, 1703,  
2503, 3101, 3103, 3105, 3106, 3107 and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has amended sections of the Tax Commission real/personal property rules and regulations for use in the 2017 (2018 Orleans Parish) tax year.

## Title 61

### REVENUE AND TAXATION

#### Part V. Ad Valorem Taxation

#### Chapter 1. Constitutional and Statutory Guides to Property Taxation

##### §101. Constitutional Principles for Property Taxation

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$72,134 for tax year 2017 (2018 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:744 (May 2016), LR 43:648 (April 2017).

##### §111. Criteria for Determining Fair Market Value

A. - B. ...

C. The fair market value of real and personal property shall be determined by the following generally-recognized appraisal procedures: the market approach, the cost approach, and/or the income approach.

1. In utilizing the market approach, the assessor shall use an appraisal technique in which the market value estimate is predicated upon prices paid in actual market transaction and current listings.

2. In utilizing the cost approach, the assessor shall use a method in which the value of a property is derived by estimating the replacement or reproduction cost of the property; deducting therefrom the estimated depreciation; and then adding the market value of the land, if any.

3. In utilizing the income approach, the assessor shall use an appraisal technique in which the anticipated net income is capitalized to indicate the capital amount of the investment which produces the net income (R.S. 47:2323).

NOTE: See Definitions, Chapter 3, for the appropriate use of these approaches.

D. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

1. income tax credits available to the property under section 42 of the *Internal Revenue Code*;

2. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the



Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;

3. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 2, §213.G-G.3 and Chapter 3, §303.C.4-4.c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:920 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:648 (April 2017).

### **§121. Reappraisal**

A. Real property, as defined in R.S. 47:2322, shall be reappraised once every four years.

B. Personal property, as defined in R.S. 47:2322, shall be reappraised and reassessed every year.

C. Incorporeal real or immovable property, as defined in R.S. 47:2322 and R.S. 47:1702, shall be reappraised and reassessed once every four years.

D. Taxable intangible public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies, per R.S. 47:1709 or incorporeal personal or movable property, as defined in R.S. 47:1702, shall be reappraised and reassessed every year.

E. Public service property, as defined in R.S. 47:1851, shall be reassessed every year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:649 (April 2017).

## **Chapter 2. Policies and Procedures for Assessment and Change Order Practices**

### **§213. Assessment Policies and Procedures**

A. All property within the state of Louisiana shall be assessed at a percentage of fair market value or use value, as the law provides, and either placed on the regular tax rolls, exempt rolls, or adjudicated tax rolls.

B. Assessors shall value property at 100 percent fair market value and then assessed valuations shall be based upon the percentage classification requirements of the Louisiana Constitution, article VII, section 18(B).

C. All property shall be reappraised and valued in accordance with the Constitution at intervals of not more than once every four years. This quadrennial cycle reappraisal date shall be determined solely by the Tax Commission.

D. “Sales chasing” and “sales listing chasing” is expressly prohibited. *Sales chasing* is the procedure by which an individual property assessment is based upon the price the property sold for. *Sales listing chasing* is the

procedure by which an individual property assessment is based upon listed sales price of the property. The assessors’ office may reappraise property during a non-reappraisal year if that property in all or a part of the assessing district, or within a certain classification, was appraised inaccurately or was not uniformly appraised during the current reappraisal cycle. Such a reappraisal shall not be applied on a parcel by parcel basis, but rather, to all property in a given geographical area. All such property shall be valued based upon the most current valuation date established by the Tax Commission and on the same criterion as other similar property.

E. The assessors shall submit applicable reporting forms to all taxpayers located within their parish, whether taxable or exempt, to ensure equity and uniformity in the assessment and valuation of all properties utilizing proper reporting data. If a taxpayer fails to report or files a false report, the assessors should apply those penalties provided for in state law.

F. Allowable methodology sources for assessors to obtain property information includes, but is not limited to:

1. aerial photography;
2. building permits;
3. CAMA and/or mapping records;
4. conveyance records;
5. city directories;
6. deed fax records;
7. demolition permits;
8. inspection of books and accounts of taxpayers;
9. insurance liability policy levels;
10. legal news publications;
11. newspaper publications;
12. 911 emergency response system records;
13. occupational licenses;
14. occupancy permits;
15. physical inspections;
16. real estate firms—multiple listings reports;
17. taxpayer reports, using proper forms;
18. utility records;
19. voter registrations.

G. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

1. income tax credits available to the property under section 42 of the *Internal Revenue Code*;
2. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;
3. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 1, §111.D-D.3 and Chapter 3, §303.C.4-4.c.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18, R.S. 47:1703, R.S. 47:1703.1, R.S. 47:1703.C., R.S. 47:1837, R.S. 47:1951, R.S. 47:1952, R.S. 47:1953, R.S. 47:1955, R.S. 47:1956,

R.S. 47:1957, R.S. 47:1959, R.S. 47:1961, R.S. 47:1971, R.S. 47:1972, R.S. 47:2306, R.S. 47:2323, R.S. 47:2324, R.S. 47:2325, R.S. 47:2329, R.S. 47:2330 and R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), LR 34:678 (April 2008), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:649 (April 2017).

### **Chapter 3. Real and Personal Property**

#### **§303. Real Property**

A. - A.2. ....

B. The following procedure shall be used for assessing, listing and placing transferred property and property upon which improvements have been made after the date of the reappraisal as set by the Tax Commission.

1. Improvements shall be added to the rolls based upon the condition of things existing on January 1 of each year (except Orleans Parish). New improvements for Orleans Parish shall be added to the next year's tax roll, based upon the condition of things existing on August 1 of each year. Value of the improvements will be indexed to the date of the last reappraisal.

2. The assessor's office may reappraise property during a non-reappraisal year if that property in all or a part of the assessing district, or within a certain classification, was appraised inaccurately or was not uniformly appraised during the current reappraisal cycle. Such a reappraisal shall not be applied on a parcel by parcel basis, but rather, to all property in a given geographical area. All such property shall be valued based upon the most current valuation date established by the Tax Commission and on the same criterion as other similar property.

C. In assessing affordable rental housing, the income approach is recommended. As defined in this Section, *affordable rental housing* means residential housing consisting of one or more rental units, the construction and/or rental of which is subject to section 42 of the *Internal Revenue Code* (26 USC 42), the Home Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act (42 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73), or any other federal, state or similar program intended to provide affordable housing to persons of low or moderate income and the occupancy and maximum rental rates of such housing are restricted based on the income of the persons occupying such housing.

1. When utilizing the income approach in appraising affordable rental housing as defined herein, the total potential and/or anticipated rental income a property may generate shall be limited by the covenants and restrictions that burden the property. Hypothetical (or anticipated) market rent shall not be utilized in appraising affordable rental housing without taking into account the covenants and restrictions burdening the property.

2. Audited financial statements shall be submitted to the assessor as an attachment to the LAT filing, or as soon

thereafter as practicable, but no later than June 15 of each year. For properties under construction and newly constructed property prior to the first full year of operation, the owner shall provide net operating income based on projected or pro-forma operating income and expense information.

3. The capitalization rate shall be set by the Tax Commission in conjunction with its rulemaking session.

a. It is recommended that the capitalization rate for affordable rental housing properties categorized as tier 1 shall be within a range of 5.5-6.5 percent, increased by the effective tax rate; for affordable rental housing properties categorized as tier 2 shall be within a range of 6.5-7.5 percent, increased by the effective tax rate; and for affordable rental housing properties categorized as tier 3 shall be within a range of 7.5-8.5 percent, increased by the effective tax rate. The tiers are as established and defined by the Real Estate Research Corporation for Apartment Investment Properties. These capitalization rates shall remain in effect until modified by the Tax Commission in accordance with its rulemaking authority.

4. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

a. income tax credits available to the property under section 42 of the *Internal Revenue Code*;

b. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;

c. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 1, §111.D through D.3 and Chapter 2, §213.G through G.3.

D. The Tax Commission has ordered all property to be reappraised for the 2016 tax year in all parishes. All property is to be valued as of January 1, 2015.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:745 (May 2016), LR 43:650 (April 2017).

**§304. Electronic Change Order Specifications,  
Property Classifications Standards and  
Electronic Tax Roll Export Specifications**

**A. Electronic Change Order Specifications**

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**B. Property Classifications Standards**

Class Code	Class Description (TC-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
<b>Real Estate</b>				
10	Agricultural Lands Class I	1000	Agricultural Lands Class I (Use Value)	Agricultural Land □ Class I containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
***	***	***	***	***
40	Improvements Residential	4000	Single Family Residence	Single Family Residence (Free standing structure or improvement) including decks, patios, pavement, swimming pools, hot tubs (Jacuzzi), gazebos, etc.
***	***	***	***	***
		4015	Modular Homes	Modular Homes
		***	***	***
		4061	A-Frame Cabins	A-Frame Cabins
		***	***	***
		4091	Prefabricated Cottages	Prefabricated Cottages
		4092	Elevated Homes	Elevated Homes
***	***	***	***	***
<b>Personal Property</b>				
50	Inventories and Merchandise	5000	Inventories and Merchandise	Inventories of items that are tangible personal property which are held for sale, process of production, consumed in the production of the goods or services to be available for sale or are utilized in marketing or distribution activities.
***	***	***	***	***
60	Watercraft	6000	Watercraft (Inshore)	Watercraft (Inshore) other than those employed in interstate commerce, are subject to valuation and assessment by Parish Assessor.
		6100	Watercraft (Offshore)	Watercraft (Offshore) other than those employed in interstate commerce, are subject to valuation and assessment by Parish Assessor.
***	***	***	***	***
<b>Public Service</b>				
***	***	***	***	***

**C. Electronic Tax Roll Export Specifications**

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<b>Parcel Information (Parcel.txt) (Required)</b>				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
***	***	***	***	***
assess_date	Character	10	Yes	Date of last assessment/reassessment (Format: 01/01/1999)
***	***	***	***	***

\*\*\*

<b>Improvement Information (Improve.txt) (Required)</b>				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
***	***	***	***	***
fact_cond	Character	40	Yes	Condition of improvement (Worn Out, Badly Worn, Average, Good, Very Good, Excellent)
fact_qual	Character	40	Yes	Quality of construction (Low, Fair, Average, Good, Very Good, Excellent)
***	***	***	***	***

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AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the

Office of the Governor, Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:745 (May 2016), LR 43:651 (April 2017).

## Chapter 7. Watercraft

### §703. Tables—Watercraft

#### A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	94	.94
2015	0.993	2	87	.86
2014	1.002	3	80	.80
2013	1.015	4	73	.74
2012	1.024	5	66	.68
2011	1.053	6	58	.61
2010	1.086	7	50	.54
2009	1.077	8	43	.46
2008	1.109	9	36	.40
2007	1.152	10	29	.33
2006	1.215	11	24	.29
2005	1.271	12	22	.28
2004	1.367	13	20	.27

#### B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	97	.97
2015	0.993	2	93	.92
2014	1.002	3	90	.90
2013	1.015	4	86	.87
2012	1.024	5	82	.84
2011	1.053	6	78	.82
2010	1.086	7	74	.80
2009	1.077	8	70	.75
2008	1.109	9	65	.72
2007	1.152	10	60	.69
2006	1.215	11	55	.67
2005	1.271	12	50	.64
2004	1.367	13	45	.62
2003	1.415	14	40	.57
2002	1.438	15	35	.50
2001	1.447	16	31	.45
2000	1.459	17	27	.39
1999	1.486	18	24	.36
1998	1.490	19	22	.33
1997	1.503	20	21	.32
1996	1.527	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission,

LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:652 (April 2017).

## Chapter 9. Oil and Gas Properties

### §901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

A. - B.3. ...

C. Explanations

*Inactive Wells*—wells that are shut-in. Shut-in status becomes effective on the date the application for shut-in status is filed, consistent with the Office of Conservation requirements.

*Injection Wells*—wells completed as single or wells reclassified by the Louisiana Department of Conservation after a conversion of another well. Wells are used for gas and water injection for production purposes, also used for disposal wells.

*Multiple Completions*—wells consisting of more than one producing zone. Deepest or primary completion may or may not be the base well number depending upon the Louisiana Department of Conservation permits and classification.

*Production Depth*—the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least 50 feet, *production depth* shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

*Single Completions*—

a. well originally completed as a single;

b. well reclassified by the Louisiana Department of Conservation after a conversion of multiple completed well to a single producing zone.

*Water Wells*—wells used for production purposes only, both fresh and salt water supply.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:652 (April 2017).

## §907. Valuation of Oil, Gas, and Other Wells

A. ...

\* \* \*

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15 percent of Cost—New by Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	35.28	123.49	5.29	18.52
1,250-2,499 ft.	31.86	90.80	4.78	13.62
2,500-3,749 ft.	25.04	60.13	3.76	9.02
3,750-4,999 ft.	34.63	59.92	5.19	8.99
5,000-7,499 ft.	40.72	58.49	6.11	8.77
7,500-9,999 ft.	89.27	78.84	13.39	11.83
10,000-12,499 ft.	260.32	95.63	39.05	14.34
12,500-14,999 ft.	423.36	144.40	63.50	21.66
15,000-17,499 ft.	541.86	164.66	81.28	24.70
17,500-Deeper ft.	N/A	460.60	N/A	69.09

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15 percent of Cost—New by Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	271.28	122.68	40.69	18.40
1,250-2,499 ft.	93.68	203.90	14.05	30.59
2,500-3,749 ft.	91.48	162.57	13.72	24.39
3,750-4,999 ft.	80.63	130.05	12.09	19.51
5,000-7,499 ft.	110.16	147.73	16.52	22.16
7,500-9,999 ft.	150.28	154.67	22.54	23.20
10,000-12,499 ft.	204.92	202.18	30.74	30.33
12,500-14,999 ft.	268.82	261.56	40.32	39.23
15,000-17,499 ft.	435.43	350.20	65.31	52.53
17,500-19,999 ft.	531.65	496.04	79.75	74.41
20,000-Deeper ft.	283.88	744.71	42.58	111.71

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15 percent of Cost—New by Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	N/A	N/A	N/A	N/A
1,250-2,499 ft.	1,359.86	993.64	203.98	149.05
2,500-3,749 ft.	699.26	763.65	104.89	114.55
3,750-4,999 ft.	998.12	700.23	149.72	105.03
5,000-7,499 ft.	496.71	648.57	74.51	97.29
7,500-9,999 ft.	629.73	613.74	94.46	92.06
10,000-12,499 ft.	712.91	622.11	106.94	93.32
12,500-14,999 ft.	620.03	605.43	93.00	90.81
15,000-17,499 ft.	427.35	628.19	64.10	94.23
17,500-19,999 ft.	212.87	600.57	31.93	90.09
20,000-Deeper ft.	N/A	944.03	N/A	141.60

B. The determination of whether a well is a region 2 or region 3 well is ascertained from its onshore/offshore status as designated on the permit to drill or amended permit to

drill form (location of wells section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the permit to drill or amended permit to drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2016	249476	Higher	97
2015	248832	249475	93
2014	247423	248831	90
2013	245849	247422	86
2012	244268	245848	82
2011	242592	244267	78
2010	240636	242591	74
2009	239277	240635	70
2008	236927	239276	65
2007	234780	236926	60
2006	232639	234779	55
2005	230643	232638	50
2004	229010	230642	45
2003	227742	229009	40
2002	226717	227741	35
2001	225352	226716	31
2000	223899	225351	27
1999	222882	223898	24
1998	221596	222881	22
1997	220034	221595	21
1996	Lower	220033	20 *
VAR.	900000	Higher	50

\*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March

2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017).

## Chapter 11. Drilling Rigs and Related Equipment

### §1103. Drilling Rigs and Related Equipment Tables

#### A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	269,700	40,500
4,000	328,200	49,200
5,000	384,300	57,600
6,000	471,300	70,700
7,000	610,800	91,600
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	813,900	122,100
9,000	1,082,500	162,400
10,000	1,410,900	211,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	1,786,400	268,000
12,000	2,191,600	328,700
13,000	2,605,100	390,800
14,000	3,002,700	450,400
15,000	3,359,200	503,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	3,649,600	547,400
17,000	3,850,000	577,500
18,000	3,939,500	590,900
19,000	3,901,200	585,200
20,000	3,723,400	558,500
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	3,401,400	510,200
25,000 +	2,938,200	440,700

1. - 2. ...

#### B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 55,500,000	\$ 8,325,000
	200-299 FT.	111,000,000	16,650,000
	300 FT. and Deeper	221,700,000	33,255,000
IS	0-199 FT.	16,700,000	2,505,000
	200-299 FT.	27,800,000	4,170,000
	300 FT. and Deeper	33,300,000	4,995,000
MC	0-199 FT.	5,600,000	840,000
	200-299 FT.	11,100,000	1,665,000
	300 FT. and Deeper	44,400,000	6,660,000
MS	0-249 FT.	11,600,000	1,740,000
	250 FT. and Deeper	22,900,000	3,435,000

IC—Independent Leg Cantilever

IS—Independent Leg Slot  
MC—Mat Cantilever  
MS—Mat Slot

#### C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
	\$	\$
0- 800 FT.	50,700,000	7,605,000
801-1,800 FT.	90,900,000	13,635,000
1,801-2,500 FT.	166,600,000	24,990,000
2,501 FT. and Deeper	522,700,000	78,405,000

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. - 3.b.i. ...

#### D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	71' X 125M# 71' X 150M# 72' X 125M# 72' X 150M# 75' X 150M#	C-7 50 SERIES 6V71	105,000	15,800
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 200M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	C-11 50 SERIES 8V71	145,000	21,800
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	C-11 50 SERIES 8V92	185,000	27,800
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	C-15 60 SERIES 12V71	225,000	33,800
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	C-15 60 SERIES 12V71 12V92	265,000	39,800
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	C-15 60 SERIES 12V71 (2) 8V92	305,000	45,800
VII	117' X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	335,000	50,300

D.1. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1982).

1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:654 (April 2017).

### Chapter 13. Pipelines

#### §1307. Pipeline Transportation Tables

##### A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	\$174,640	\$26,200
4	206,040	30,910
6	243,070	36,460
8	286,760	43,010
10	338,310	50,750
12	399,110	59,870
14	470,850	70,630
16	555,490	83,320
18	655,340	98,300
20	773,130	115,970
22	912,100	136,820
24	1,076,050	161,410
26	1,269,460	190,420
28	1,497,640	224,650
30	1,766,840	265,030
32	2,084,430	312,660
34	2,459,100	368,870
36	2,901,110	435,170
38	3,422,580	513,390
40	4,037,770	605,670
42	4,763,550	714,530
44	5,619,790	842,970
46	6,629,920	994,490
48	7,821,630	1,173,240

NOTE: Excludes river and canal crossings

##### B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	\$1,007,620	\$151,140
4	1,011,070	151,660
6	1,015,340	152,300
8	1,033,090	154,960
10	1,058,260	158,740
12	1,090,850	163,630
14	1,130,850	169,630
16	1,178,280	176,740
18	1,233,120	184,970
20	1,295,380	194,310
22	1,365,060	204,760
24	1,442,150	216,320
26	1,526,670	229,000
28	1,618,600	242,790

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
30	1,717,950	257,690
32	1,824,720	273,710
34	1,938,900	290,840
36	2,060,500	309,080
38	2,189,520	328,430
40	2,325,960	348,890
42	2,469,820	370,470
44	2,621,090	393,160
46	2,779,780	416,970
48	2,945,890	441,880

##### C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age (Yrs)	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

\*Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:655 (April 2017).

## Chapter 15. Aircraft

### §1503. Aircraft (Including Helicopters) Table

#### A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	97	.97
2015	0.993	2	93	.92
2014	1.002	3	90	.90
2013	1.015	4	86	.87
2012	1.024	5	82	.84
2011	1.053	6	78	.82
2010	1.086	7	74	.80
2009	1.077	8	70	.75
2008	1.109	9	65	.72
2007	1.152	10	60	.69
2006	1.215	11	55	.67
2005	1.271	12	50	.64
2004	1.367	13	45	.62
2003	1.415	14	40	.57
2002	1.438	15	35	.50
2001	1.447	16	31	.45
2000	1.459	17	27	.39
1999	1.486	18	24	.36
1998	1.490	19	22	.33
1997	1.503	20	21	.32
1996	1.527	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015), LR 42:749 (May 2016), LR 43:656 (April 2017).

## Chapter 17. Inventories

### §1701. Guidelines for Ascertaining the Fair Market Value of Inventories

#### A. - E. ...

F. Reporting of Inventory. All persons, engaged in a business in the state, shall report, on LAT Form 5, a full and accurate disclosure of all merchandise on hand without respect as to whether or not all items are recorded on the person's accounting records. Reported inventory shall be itemized in specific detail, showing the quantity, description, and value.

NOTE: See addendum for reporting requirements.

G. Inventory Values. The law provides that: in the assessment of merchandise or stock in trade on hand, the inventory value of the merchandise shall be ascertained by

computing the cost or purchase price at the point of origin, plus the carrying charges to the point of destination, and the average value as so determined during the year preceding the calendar year in which the assessment is made shall be the basis for fixing the assessed value (R.S. 47:1961).

H. Assessment of Inventory. The assessed value shall be based upon 15 percent of the average inventory cost for the preceding calendar or fiscal year. Any inventory that existed less than a full year shall be averaged for the months it had situs at the reported location. However, this does not mean to annualize the monthly inventory costs if less than 12 months are used to calculate the average inventory to be assessed.

NOTE: See addendum for assessment guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:2322, and Louisiana Constitution, Article VII §4(B).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 13:188 (March 1987), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:656 (April 2017).

### §1703. Addendum

#### A. - A.2. ...

#### B. Addendum for Reporting Requirements

1. The LAT Form 5 is required for each business location. If items of inventory are exempt under Louisiana Constitution article VII, §21(D-3), the inventory must be reported in section 1 (or attachment, if required), with type, number of units and value. Notation must be made that this inventory qualifies for exemption under the subject article and section of the state constitution that exempts such property from ad valorem taxation.

2. Inventories are to be reported on the actual physical inventory taken either at each month's end or taken at three points in the year (opening, mid and closing).

3. For reporting purposes, the value of this inventory is the average cost, production or purchase, at point of origin, plus carrying charges to the point of destination, for the preceding year. The accounting method used should be noted on the LAT form.

#### C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1961 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:656 (April 2017).

## Chapter 25. General Business Assets

### §2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

#### A. - A.1. ...

\* \* \*

#### B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2016 = 100*
2016	1	1580.9	1.001
2015	2	1593.7	0.993
2014	3	1578.8	1.002



Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2016 = 100*
2013	4	1558.7	1.015
2012	5	1545.9	1.024
2011	6	1503.2	1.053
2010	7	1457.4	1.086
2009	8	1468.6	1.077
2008	9	1427.3	1.109
2007	10	1373.3	1.152
2006	11	1302.3	1.215
2005	12	1244.5	1.271
2004	13	1157.3	1.367
2003	14	1118.6	1.415
2002	15	1100.0	1.438
2001	16	1093.4	1.447
2000	17	1084.3	1.459
1999	18	1065.0	1.486
1998	19	1061.8	1.490
1997	20	1052.7	1.503
1996	21	1036.0	1.527
1995	22	1020.4	1.551
1994	23	985.0	1.606
1993	24	958.0	1.652
1992	25	939.8	1.684
1991	26	928.5	1.704
1990	27	910.2	1.738
1989	28	886.5	1.785
1988	29	841.4	1.881
1987	30	806.9	1.961
1986	31	795.4	1.989

\* Reappraisal Date: January 1, 2016—1582.3  
(Base Year)

C. ...

\* \* \*

D. Composite Multipliers 2017 (2018 Orleans Parish)

Table 2503.D Composite Multipliers 2017 (2018 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98	.98
2	.49	.69	.72	.78	.83	.86	.89	.92	.94	.96
3	.34	.52	.57	.67	.76	.80	.85	.90	.93	.95
4	.16	.35	.42	.55	.68	.74	.80	.87	.91	.94
5		.24	.31	.44	.59	.68	.75	.84	.89	.93
6		.19	.20	.35	.52	.61	.72	.82	.88	.92
7			.20	.28	.42	.54	.67	.80	.88	.92
8				.24	.32	.46	.59	.75	.84	.90
9				.22	.27	.40	.54	.72	.83	.89
10					.24	.33	.50	.69	.82	.89
11					.24	.29	.45	.67	.81	.88
12						.28	.39	.64	.81	.87
13						.27	.36	.62	.80	.86
14							.33	.57	.79	.86
15							.30	.50	.75	.86
16							.29	.45	.69	.86
17								.39	.64	.85
18								.36	.58	.80
19								.33	.51	.76
20								.32	.45	.71
21								.31	.43	.67
22									.40	.62
23									.39	.59
24									.33	.56
25									.32	.52
26									.32	.48
27										.45

Table 2503.D Composite Multipliers 2017 (2018 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
28										.41
29										.40
30										.39
31										.38

1. Data sources for tables are:

- cost index—Marshall and Swift Publication Co.;
- percent good—Marshall and Swift Publication Co.;
- average economic life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:656 (April 2017).

### Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - I. ...

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The notice of determination shall be sent simultaneously to the assessor and the taxpayer at the address shown on the appeal form by certified mail. The Board of Review shall include an appeal Form 3103.A with the notice of determination.

K. ...

#### Form 3101 Exhibit A

#### Appeal to Board of Review by Property Owner/Taxpayer for Real and Personal Property

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_  
Taxpayer  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
Ward: \_\_\_\_\_ Assessment/Tax Bill Number: \_\_\_\_\_ Appeal No. \_\_\_\_\_  
Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if

personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Personal Property\* \$ \_\_\_\_\_  
Total \$ \_\_\_\_\_

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Personal Property\* \$ \_\_\_\_\_  
Total \$ \_\_\_\_\_

\* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If property owner/taxpayer disputes the Board of Review's decision, property owner/taxpayer may appeal to the La. Tax Commission by completing and submitting Appeal Form 3103.A to the LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the BOR's written determination. For further information, call the LTC at (225) 925-7830.

Property Owner/Taxpayer \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No. \_\_\_\_\_

Email Address: \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015), LR 42:751 (May 2016), LR 43:657 (April 2017).

### **§3103. Appeals to the Louisiana Tax Commission**

A. - B. ...

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator, unless otherwise provided herein. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. If the total of one party's exhibits exceed 100 pages, such exhibits must be submitted to the Tax Commission in electronic/digital form along with 2 paper copies. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. ...

D.1. All parties shall receive notice of the scheduling of an appeal hearing at least 30 days prior to the scheduled hearing date.

2. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of

Review decision may attach a pleading containing further information concerning the appeal.

3. Either party may request a continuance of a scheduled hearing. Such a request must be made in writing and filed and served on the opposing party at least 15 days prior to the scheduled hearing date, unless good cause can be shown why the 15-day requirement should be waived. Requests for continuance must contain the grounds on which the continuance is requested and state whether or not the opposing party objects to the request.

4. A taxpayer or assessor who has appealed the decision of the Board of Review shall file and serve on the opposing party at least 15 days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing. The party appealing the decision of the Board of Review must submit evidence that establishes the fair market value of their property or other grounds that would constitute reversal of the Board of Review's decision.

5. The party who has not appealed the Board of Review decision shall file and serve on the opposing party at least seven days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing.

6. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits and bound. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer \_\_\_\_\_" and shall be consecutively numbered. The taxpayer shall at the time an exhibit is offered state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor \_\_\_\_\_" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission \_\_\_\_\_" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record proceedings before the commission, but shall not be filed as exhibits offered into evidence for the hearing before the commission.

E. If a taxpayer appeals the Board of Review's decision on the basis that the assessor appraised his or her property on the sole basis of a sale or sales listing, evidence establishing that the property was appraised at the value of, or based solely upon, the sale or sales listing shall constitute prima facie evidence of sales/listing chasing and shall create a rebuttal presumption against the assessment.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise prior to the hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible of the number of witnesses;
3. the time required for presentations;
4. stipulations as to admissibility of exhibits;
5. submission of proposed findings of fact;

6. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the party, which has initiated the appeal to the commission. The statement shall be filed with the commission seven days prior to the scheduled hearing before the commission. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is disagreement together with a brief summary of the nature of the disagreement.

H. Upon written notice by the commission, the parties or their attorneys or other representative may be directed to file legal memorandums with the commission 15 days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

I. Any party with leave of the commission or hearing officer may present prepared sworn deposition testimony of a witness either narrative or in question and answer form, which shall be incorporated into the record as if read by a witness. The opposing party will be allowed to cross-examine and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

J. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, or through an attorney or other representative; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time employee, or any other person duly authorized as provided for on "exhibit B, appointment of taxpayer agent in Louisiana Tax Commission ad valorem tax appeal" (Form 3103.B).

K. Every taxpayer or assessor, witness, attorney or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer or assessor, witness, attorney or other representative may be excluded by the commission from any hearing for such period and upon such conditions as are just for violation of this rule.

L. All official hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

M. A continuance shall not be granted due to an unexcused absence of a taxpayer, assessor or any representative, attorney or witness, at the time and place set for a scheduled hearing before the commission, without consent of the taxpayer and/or assessor. If such consent is refused, the hearing shall proceed.

N. The hearing shall be conducted informally. It will be the responsibility of the taxpayer or assessor to retain the services of an official reporter for a scheduled hearing should either anticipate the need for a transcript. The Tax

Commission shall be notified within three business days, prior to the scheduled hearing that an official reporter will be in attendance.

O. All parties testifying shall be placed under oath by the commission at the onset of each hearing.

P. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana *Rules of Evidence* shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

Q. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. The Board of Review does not transmit a record or evidence to the Tax Commission. Any evidence or information that was submitted to the Board of Review must be filed by the parties, to be considered by the Tax Commission. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

R. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses, and rule upon the admissibility of evidence and amendments to the pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

S. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission.

T. At the close of evidence, each side will be allowed a reasonable amount of time to argue its case. This time will be allotted by the chairman or hearing officer.

U. The parties to an appeal shall be notified in writing, by certified mail and electronic mail, of the final decision by the commission. The taxpayer or assessor shall have 30 days from entry of the order to appeal to a court of competent jurisdiction.

V. The Tax Commission defines *entry* under R.S. 47:1998, as the mailing of the decision to the parties. Decisions by the Tax Commission are not entered or final until signed and placed in the mail to the parties.

W. Following the entry of a final decision, the commission may, at its discretion, grant the request of a taxpayer or assessor for a rehearing; provided the rehearing request is made in accordance with the Administrative Procedure Act.

X. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents for a hearing may be issued by the commission upon its own motion, or upon the written request of the taxpayer or assessor. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena *duces tecum* shall allow no less than five days to assimilate and to deliver said

documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBPT-2 (found on the Tax Commission's website under general forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Administrative Procedure Act.

Y. The word *commission*, as used herein, refers to the chairman and the members or its delegate appointed to conduct the hearing.

Z. A decision by the Tax Commission that determines the fair market value of a property shall be applied to subsequent tax years until reappraisal in a future mandated reappraisal year, unless there has been a change in the condition of the property that would justify reappraisal or a change in value. A change in value in subsequent tax years for a property that the Tax Commission determined fair market value of, prior to a reappraisal year, shall serve as prima facie evidence of a prohibited reappraisal and shall create a rebuttable presumption against the assessment. The assessor must show that there has been a change in the condition of the property that would justify reappraisal or a change in value in a non-reappraisal year.

**Form 3103.A  
Exhibit A  
Appeal to Louisiana Tax Commission  
by Property Owner/Taxpayer or Assessor  
for Real and Personal Property**

La. Tax Commission  
P.O. Box 66788  
Baton Rouge, LA 70896  
(225) 925-7830

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_  
Property Owner/Taxpayer/Assessor  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Ward: \_\_\_\_\_ Assessment Tax Bill No.: \_\_\_\_\_ Appeal No.: \_\_\_\_\_  
(Attach copy of complete appeal submitted to the Board of Review)  
Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal. \_\_\_\_\_

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:  
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_  
Personal Property \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The proposed Fair Market Value by the taxpayer was (at the Board of Review):  
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_  
Personal Property \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

The Fair Market Value determined by the Board of Review was:  
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_  
Personal Property \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\* If you are not appealing personal property leave this section blank.

Note: Both parties have the right to appeal the Board of Review's decision. If you disagree with the Board of Review's determination, you must file an appeal. The appeal of the decision of the Board of Review by one party is not an appeal of that decision from the other party. To protect your rights, if you disagree with the determination of the Board of Review, you should file an appeal to the Louisiana Tax Commission challenging the Board of Review's determination regardless of whether or not the other party has appealed that decision.

Appellant: (Property Owner/Taxpayer/Assessor)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Date of Appeal: \_\_\_\_\_

**Form 3103.B  
Exhibit B  
Appointment of Taxpayer Agent  
In  
Louisiana Tax Commission  
Ad Valorem Tax Appeal**

**I. Appellant Taxpayer:**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Email Address \_\_\_\_\_

**II. Authorized Taxpayer Agent:**

Name of Agent \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Email Address \_\_\_\_\_

**III. Scope of Authorized Appointment:**

A. Duration:  
\_\_\_\_ Tax Year \_\_\_\_ (Days, Months, etc.) \_\_\_\_ Until Revoked.

B. Agent Authority:

1. General powers granted to represent taxpayer in all matters.
2. Specified powers as listed.
  - (a.) File notices of protest and present protests before the Louisiana Tax Commission.
  - (b.) Receive confidential information filed by taxpayer.
  - (c.) Negotiate and resolve disputed tax matters without further authorization.
  - (d.) Represent taxpayer during appeal process.

C. Properties Authorized to Represent:

1. All property.
2. The following property only (give assessment number, and municipal address or legal description).

(Continue on attached pages as needed.)

**IV. The undersigned owner or legally authorized corporate officer does hereby appoint the above named taxpayer agent as provided herein.**

By: \_\_\_\_\_  
Signature Date  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Title or Position \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947

(November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015), LR 42:752 (May 2016), LR 43:658 (April 2017).

### §3105. Practice and Procedure for Public Service

#### Properties Hearings

A. - S. ...

LTC Docket No. \_\_\_\_\_

**Form 3105.A**  
**Exhibit A**  
**Appeal to Louisiana Tax Commission**  
**by Taxpayer**  
**For Public Service Property**

La. Tax Commission  
P.O. Box 66788  
Baton Rouge, LA 70896  
(225) 925-7830

Taxpayer Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Circle one Industry:

Airline Boat/Barge Co-op Electric Pipeline Railcar Railroad Telephone

The Fair Market Value as determined by the Public Service Section of the Louisiana Tax Commission is:

Total \$ \_\_\_\_\_

I am requesting that the Fair Market Value be fixed at:

Total \$ \_\_\_\_\_

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. : \_\_\_\_\_

Email Address: \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017).

### §3106. Practice and Procedure for the Appeal of Bank Assessments

A. - T. ...

LTC Docket No. \_\_\_\_\_

**Form 3106.A**  
**Appeal to Louisiana Tax Commission**  
**by Taxpayer**  
**for Bank Stock Assessments**

LA Tax Commission  
P.O. Box 66788  
Baton Rouge, LA 70896  
(225) 925-7830

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_

Taxpayer

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Address or Legal Description of Property Being Appealed \_\_\_\_\_

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

\$ \_\_\_\_\_

I am requesting that the Fair Market Value be fixed at:

\$ \_\_\_\_\_

Appellant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Date: \_\_\_\_\_

Email Address: \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017).

### §3107. Practice and Procedure for Appeal of Insurance Credit Assessments

A. - T. ...

LTC Docket No. \_\_\_\_\_

**Form 3107.A**  
**Appeal To Louisiana Tax Commission**  
**by Taxpayer**  
**for Insurance Assessments**

LA Tax Commission  
P.O. Box 66788  
Baton Rouge, LA 70896  
(225) 925-7830

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_

Taxpayer

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Address or Legal Description of Property Being Appealed \_\_\_\_\_

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

\$ \_\_\_\_\_

I am requesting that the Fair Market Value be fixed at:

\$ \_\_\_\_\_

Appellant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Date: \_\_\_\_\_

Email Address: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), amended LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017).

### **Chapter 35. Miscellaneous**

#### **§3501. Service Fees—Tax Commission**

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2014, and ending on June 30, 2018, in connection with services performed by the Tax Commission as follows:

1. a fee for assessing public service property, at the rate of .01 percent of the assessed value, beginning July 1, 2014 and ending on June 30, 2016 and at the rate of .04 percent of the assessed value beginning July 1, 2016 and ending on June 30, 2018, to be paid by each public service property which pays ad valorem taxes;

2. a fee for assessing insurance companies, at the rate of .015 percent of the assessed value, to be paid by each insurance company which pays ad valorem taxes;

3. a fee for assessing financial institutions, at the rate of .015 percent of the assessed value, to be paid by each bank and capital stock association which pays ad valorem taxes.

B. - E. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 41:683 (April 2015), LR 43:662 (April 2017).

Lawrence E. Chehardy  
Chairman

1704#026

### **RULE**

#### **Department of Health Bureau of Health Services Financing**

Applied Behavior Analysis-Based Therapy Services  
Reimbursement Rate Realignment (LAC 50:XV.703)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

##### **Part XV. Services for Special Populations**

##### **Subpart 1. Applied Behavior Analysis-Based Therapy Services**

#### **Chapter 7. Reimbursements**

##### **§703. Reimbursement Methodology**

A. Reimbursement for ABA-based therapy services shall be based upon a percentage of the commercial rates for ABA-based therapy services in the state of Louisiana.

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 will be realigned to be consistent with the commercial rates in the state related to these codes which go into effect statewide on January 1, 2017.

1. Prior authorizations already in effect on the promulgation date of these provisions will be honored. Those services shall be paid at the rate in effect on December 31, 2016.

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect on January 1, 2017 must be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:928 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:662 (April 2017).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH  
Secretary

1704#056

### **RULE**

#### **Department of Health Bureau of Health Services Financing**

Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Supplemental Payments  
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part VII. Long Term Care**  
**Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32917. Supplemental Payments**

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of \$329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:663 (April 2017).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH  
Secretary

1704#057

**RULE**  
**Department of Health**  
**Bureau of Health Services Financing**

Managed Care for Physical and Behavioral Health  
Louisiana Health Insurance Premium Payment Program  
(LAC 50:I.3103)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part I. Administration**  
**Subpart 3. Managed Care for Physical and Behavioral Health**

**Chapter 31. General Provisions**

**§3103. Recipient Participation**

A. - G. ...

H. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in an MCO and cannot voluntarily enroll in an MCO. Individuals who:

a. - c. ...

d. have a limited period of eligibility and participate in either the Spend-Down Medically Needy Program or the Emergency Services Only program;

e. receive services through the Take Charge Plus program; or

f. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) program.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:663 (April 2017).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH  
Secretary

1704#058

## **RULE**

### **Department of Health Bureau of Health Services Financing**

#### **Medicaid Eligibility Louisiana Health Insurance Premium Payment Program (LAC 50:III.2311)**

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:III.2311 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

#### **Chapter 23. Eligibility Groups and Medicaid Programs**

#### **§2311. Louisiana Health Insurance Premium Payment Program**

A. Section 1906 of Title XIX of the Social Security Act mandates that Medicaid recipients enroll, and maintain their enrollment, in cost-effective group health insurance plans as a condition of Medicaid eligibility if such a plan is available. In compliance with section 1906, the department hereby establishes the Louisiana Health Insurance Premium Payment (LaHIPP) Program to provide Medicaid payment of the costs associated with the enrollment of recipients in cost-effective group health insurance plans.

B. Medicaid recipients shall be enrolled in LaHIPP when cost-effective health plans are available through the recipient's employer or a responsible party's employer-based health plan if the recipient is enrolled or eligible for such a health plan.

1. The enrollment period for the LaHIPP Program shall be no less than six months.

C. When coverage for eligible family members is not possible unless ineligible family members are enrolled, the Medicaid Program will pay the premiums for the enrollment of other family members when it is cost-effective.

D. The recipient, or the individual acting on behalf of the recipient, shall cooperate to establish the availability and cost effectiveness of group health insurance.

1. Medicaid benefits of the parent may be terminated for failure to cooperate unless good cause for non-cooperation is established. Medicaid benefits for a child shall not be terminated due to the parent's or authorized representative's failure to cooperate.

E. Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

F. LaHIPP recipients shall be entitled to coverage of the patient responsibility amounts for services covered under the group health insurance to the extent allowed under the Medicaid State Plan and for all services that are not covered by the group health insurance but are provided for under the Medicaid State Plan and rendered by Medicaid providers.

G. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower

than anticipated claims for any period of time in which the department paid the premiums.

H. The Medicaid Program will make the determination whether the group health insurance plan(s) available to the recipient is cost effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:664 (April 2017).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH  
Secretary

1704#059

## **RULE**

### **Department of Health Office for Citizens with Developmental Disabilities**

#### **Individual and Family Support Program (LAC 48:IX.Chapter 11)**

The Louisiana Department of Health (LDH), Office for Citizens with Developmental Disabilities (OCDD), pursuant to Act 378 of the 1989 Regular Legislative Session as contained in R.S. 28:824, has established Louisiana's community and family support system. The individual and family support program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, both entitlements and those occurring naturally in the individual's family and community. The intent of this Rule is to establish program regulations for the individual and family support program to ensure proper utilization of program funds and service delivery.

#### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

#### **Part IX. Developmental Disabilities Services System Chapter 11. Individual and Family Support Program §1101. Purpose**

A. The individual and family support program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, both entitlements and those occurring naturally in the individual's family and community.

B. The purposes of the individual and family support program shall be:

1. to establish or maintain a quality of life for individuals with developmental disabilities and their families in a manner that respects both the individual's needs and aspirations and the individual's ability to use supports in a responsible and accountable manner;

2. to link individuals with developmental disabilities and their families to existing supports and resources and to supplement those supports as necessary to maintain the integrity of individuals and their families.



AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:664 (April 2017).

### **§1103. Definitions**

*Applicant*—the individual with developmental disabilities for whom supports are requested.

*Developmental Disability*—defined in accordance with the developmental disability law at R.S. 28:451.2(12).

*Eligible Individual*—individual who has been determined to be eligible for developmental disabilities services, through a statement of approval (SOA) to participate in developmental disabilities services as part of the single point of entry (SPOE) process in most current use as established by the OCDD.

*Individual and Family Support Committee*—the advisory committee to the individual and family support (IFS) program within each local governing entity administering the IFS program.

*Local Governing Entity (LGE)*—an existing or newly created local governmental entity with local accountability and management of behavioral health and developmental disabilities services as well as any public health or other services contracted to the district by the department.

*Office for Citizens with Developmental Disabilities (OCDD)*—the office, within the Department of Health, which has the responsibility for developing, evaluating and guiding programs and supports for Louisiana's citizens with developmental disabilities.

*Plan of Support*—the individualized plan for provision of supports for individuals and families developed utilizing the most recently approved format by OCDD.

*Support Coordination*—the provision of assistance to individuals with developmental disabilities or their families to identify and coordinate necessary supports to access, utilize and maintain those supports in a fiscally sound manner.

*Support Coordinator*—the person responsible for case coordination for an individual with developmental disabilities and/or his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:665 (April 2017).

### **§1105. Participant Records**

A. Each local governing entity (LGE) will maintain a single participant record for each applicant or recipient of individual and family support funding, which will comply with all Department of Health (LDH), Office for Citizens with Developmental Disabilities (OCDD), and Health Insurance Portability and Accountability Act (HIPAA) requirements. The record will reflect all aspects of service provision to the participant, inclusive of multiple or varied funding sources and/or fiscal year.

1. Progress note entries will provide strict chronological documentation for all case activity from all programs; these notes will be signed and dated to be considered complete.

2. Monitoring from external agencies will be acceptable provided documentation complies with

requirements set forth by OCDD; the LGE administering the program shall be responsible for ensuring that adequate documentation is included in the record.

B. Each LGE administering the individual and family support program will comply with established policies and procedures of the LDH and OCDD of the confidentiality of and access to participant records and the time-periods to retain those records.

C. Necessary additional information specific to the development of the request for individual and family support resources shall also be included in the participant record:

1. plan of support document that is current within a year and generated in a format approved by the OCDD or a comprehensive plan of care current within a year, which clearly identifies services requested and received from the LGE, or an EarlySteps individualized family services plan (IFSP), that is current within a year;

2. individual and family support prioritization instrument that is current within a year;

3. notice of decision for the individual and family support program;

4. individual and family support notice of right to appeal, as appropriate; and

5. individual and family support request for appeal, as appropriate.

D. When individual and family support funds are allocated and expended on behalf of individuals, these documents will be maintained in the records in compliance with requirements of the LDH, OCDD, and auditing authorities, and shall, at a minimum, include:

1. justification to the executive director of a LGE for expenditures in excess of \$15,000, in a single fiscal year, inclusive of all funding sources, as appropriate;

2. justification to the executive director of a LGE for approval of an exception for use of funds not authorized by these program guidelines, as appropriate; and

3. expenditure recap sheet, which specifies the total amount of individual and family support funds authorized, dates and amounts of expenditure of these funds and the total remaining on the initial allocation.

E. Agencies administering the individual and family support program will be required to comply with the requirements set forth and utilize forms approved for use by OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:665 (April 2017).

### **§1107. Eligibility**

A. The individual and family support program is a resource available to serve an individual with developmental disabilities and his/her family as follows.

1. The individual lives in Louisiana and is approved to participate in developmental disabilities services in accordance with the developmental disability law. More specifically, the individual has a current statement of approval.

2. The individual may receive individual and family support funds to address identified supports to enable the person to remain in the community and/or to improve his/her quality of life.

3. The individual is at risk of being institutionalized or is institutionalized but intends to return to the community with appropriate supports.

B. The individual and his/her family must demonstrate the ability to provide the necessary and appropriate care and supervision for the individual with developmental disabilities who receives the support.

C. The family must not be subsidized for care of the individual except for Family Independence Temporary Assistance Program (FITAP) or Social Security (SS) benefits. OCDD flexible family fund, Department of Children and Family Services adoption subsidy, and child support are not considered subsidized care; requests may be approved on an individual basis for eligible individuals receiving adoption subsidies.

D. Financial circumstances will be considered in the prioritization of individual and family support program funds except that family income will not disqualify applicants, but the applicant's ability to independently provide supports will be considered in funding decisions. Individual income will be considered for persons with developmental disabilities who are establishing or maintaining supervised independent living in the community.

E. Requests for individual and family support funding may be approved for non-related persons when the applicant meets all other eligibility criteria, with at least one of the following.

1. The relationship and/or living arrangement is of long-standing or is permanent (not temporary) duration.

2. The person providing care is not the guardian of the applicant.

3. The applicant meets the Internal Revenue Service definition for a dependent for federal income tax purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:665 (April 2017).

#### **§1109. Request for Individual and Family Support Funding**

A. The request for individual and family support funding can be made by any eligible individual with developmental disabilities or his/her family or representatives, support coordination agent or designated facility personnel for individuals residing in residential facilities who desire to return to the community and/or family.

B. All requests for individual and family support funding will go to the geographically appropriate LGE for determination.

C. Individuals must have a current statement of approval (SOA) to receive individual and family support funds unless situation meets exceptions set forth by OCDD.

D. The support coordinator will assist the individual and/or family in completing the plan of support to request individual and family support funding.

1. The support coordinator will complete the plan of support in cooperation with the applicant and his/her family and will provide information on available supports and the type of support requested. The individual and/or family will be considered the primary decision maker.

2. The LGE administering individual and family support (IFS) funds shall have responsibility for determination of the prioritization for allocation of IFS funds.

3. Requests for individual and family support funds will be made to the geographically appropriate LGE. The developmental disabilities director will determine whether the request requires an immediate response. This can also be accomplished through designation by the developmental disabilities director.

4. Individuals with developmental disabilities or their families will have the opportunity to present their requests to the individual and family support committee in person or by representation of their choice. The support coordinator may represent the applicant and his/her family at their request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:666 (April 2017).

#### **§1111. Plan of Support**

A. There will be a single plan of support for each applicant for individual and family support funding, regardless of the funding mechanism or LGE delivering supports, which will be developed on the most recently OCDD approved format.

B. The support coordinator will meet with the individual and/or family to generate an individualized plan of support specific to the individual's need for supports, to include the following as defined by OCDD: personal outcome goal(s), exploration of resources available to the individual and/or family, support requests to adequately justify and determine the extent and duration of support(s) needed and statement of the total amount of funds to be expended and the terms of service delivery.

C. The plan of support will reflect the participant's current life situation and pattern of support needs and will be revised at least annually and when the participant's life circumstances change, such as the participant moves into a supported independent living setting or begins to receive waiver services, and/or when support needs change, such as when care giver(s) health fails and increased personal care service are needed.

D. The plan of support will be completed prior to the development of any form of agreement to provide individual and family support funding (except in the case of an emergent situation as determined by the developmental disabilities director) and the term of service will extend for the duration of service.

E. The plan of support will specify the conditions of use of service and reporting or documentary responsibilities of the participant and/or family receiving services.

F. The comprehensive plan of care generated by the service coordination agents for waiver services may serve as the plan of support according to conditions set forth by the OCDD.

G. The plan of support will be reviewed at least annually by the LGE and in other circumstances as defined by OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:666 (April 2017).

**§1113. Prioritization for Individual and Family Support Funding**

A. Each LGE will be responsible for the prioritization of all requests for individual and family support funding presented for a funding decision according to the following.

1. Priority 1. Without requested supports, there is an immediate or potential threat out-of-home placement or homelessness due to:

- a. the individual's emergent or acute medical care needs;
- b. documented abuse or neglect of the individual requiring immediate action to preserve his/her health or safety;
- c. death or inability of caregiver to continue care due to his/her own age or health exposing the individual to substantial jeopardy;
- d. caregiver's inability to continue care without assistance due to employment or other family obligations;
- e. the individual's intense or frequent challenging behavioral needs requiring immediate action to preserve his/her health; or
- f. substantial threat that the individual will experience a health crisis leading to death or homelessness, hospitalization or placement in a nursing facility without the requested supports.

2. Priority 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing his/her independence or productivity, and/or to maintain the caregiver's ability to provide supports and a stable home environment in the foreseeable future.

3. Priority 3. Supports are needed to maintain the individual's health, independence or productivity, and/or to maintain the caregiver's long-term ability to provide supports in a stable home environment.

4. Priority 4. Supports are needed to enhance the individual's quality of life and enhance the family's ability to provide a stable home environment.

B. Individual and family support funding will be accessed only after it is determined and documented that natural, generic or other entitlement supports are not sufficient to meet the needs of the individual. The LGE and support coordinators will be knowledgeable of and utilize, where possible and feasible, existing services, programs and/or funding sources and work actively to educate applicants of such resources.

C. All individual and family support allocations will be evaluated at the time of the initial application for funding and at least annually thereafter to determine the continuing need for authorized supports. Documentation shall be provided with completion of the OCDD individual and family support prioritization instrument form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:667 (April 2017).

**§1115. Individual and Family Support Committee**

A. Each LGE will maintain an individual and family support committee to be convened on a regular basis, no less than quarterly, and on an as-needed basis to serve an advisory function to LGE deliberations about allocation of funding.

B. The individual and family support committee shall be composed of the developmental disabilities director, or designee; the supervisor of the individual and family support program; the support coordinator working with the applicant; at least one from an advocacy organization, such as Families Helping Families; at least one representative of the regional advisory committee; and at least one adult participant or a parent or a participant receiving supports through the individual and family support program. An adult participant or a parent may serve in a dual role on the committee.

C. The developmental disabilities director, or designee, shall report the activities of the individual and family support committee to the regional advisory committee at least quarterly to include:

1. number of persons receiving individual and family support funding;
2. types of supports provided;
3. total amount of funds budgeted and expended;
4. resolution of emergency funding requests and expenditures;
5. circumstances of imposition of fiscal controls imposed on recipients of individual and family support funds, if any; and
6. results of the quarterly supervisory review of at least 10 percent of active individual and family support cases completed.

D. The developmental disabilities director, or designee, shall maintain a record of the meetings of the individual and family support committee including, minimally, those in attendance, requests discussed, and resolution of all applications. This record will be made available for review by monitoring or auditing activity as requested by OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:667 (April 2017).

**§1117. Allocation of Individual and Family Support Funding**

A. Authorization for individual and family support funding will be made by the developmental disabilities director in cases determined to require immediate action. Factors which may influence allocation of funds under these circumstances include:

1. urgency of need;
2. probable consequences of failure to allocate funds and possible benefits;
3. adequacy of utilization of and exploration of alternative resources; and
4. resources available to the individual with developmental disabilities and/or the family.



B. Authorization for funding in cases determined to not require immediate action by the developmental disabilities director will be prioritized by the LGE according to §1113 to determine the level of need and service authorized and, any limitations, stipulations or conditions to be met by the individual or family to receive individual and family support funding.

C. Actions which may be taken shall be defined by the OCDD and shall include: approval, approval pending funding, deferment, and denial.

D. The LGE shall notify persons requesting services of the decision to allocate individual and family support funds in writing within 10 days of taking any action on the request.

1. Notification to applicants and their support coordinators will be written and documented by copy of the letter of notification which shall include notification of their right to appeal the decision.

2. Separate notifications will be made each time a request for supports is reviewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:667 (April 2017).

#### **§1119. Individual and Family Support Expenditures**

A. Individual and family support expenditures will only be authorized through a plan of support which will:

1. be generated no more than 90 days before the request for support is made;

2. extend for the duration of any agreement to utilize individual and family support funds;

3. define the specific type, duration and intensity of supports needed; and

4. identify the agent(s) to provide the service and any special conditions associated with service delivery.

B. The developmental disabilities director, or designee, shall be responsible for expenditures in the individual and family support program, more specifically the amount budgeted and the number of people served, and shall ensure administration within the guidelines established by the OCDD.

C. The developmental disabilities director, or designee, shall be responsible for supplying written justification for expenditures above \$15,000 for a single individual within a single fiscal year from all sources to the executive director of a LGE prior to expenditure of funds. Plans of support approved for less than this amount will not require such notification. A copy of the letter of justification shall be maintained in the participant record.

D. The developmental disabilities director, or designee, shall be responsible for supplying written justification of expenditures outside guidelines established by the OCDD to the executive director of a LGE before funds are expended. Plans of support which are within program guidelines will not require such notification. A copy of the letter of justification shall be maintained in the participant record.

E. The developmental disabilities director may authorize a one-time expenditure for a payment prior to receipt of service if documentation which justifies the individual or family's financial hardship and/or inability to provide the advance payment required for cost-reimbursement individual agreements is provided. Individual and/or family reliance on

FITAP, SS disability or SSI will be adequate justification for such expenditure.

F. Each participant record will include an expenditure recap sheet, which details all individual and family support expenditures, regardless of payment mechanism and which provides a contemporaneous record of expenditures.

G. Funds appropriated or allocated to the individual and family support program cannot be used for salaries of civil service or contract employees who coordinate and monitor the individual and family support services and the use of the funds or for other costs associated with administering this program. All funds appropriated or allocated to the individual and family support program must be spent on the direct purchase of goods, supports or services to assist the individual with a developmental disability and/or his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:668 (April 2017).

#### **§1121. Implementing the Plan of Support**

A. The support coordinator, in cooperation with the participant, will implement the plan of support as approved.

B. The support coordinator will serve as the primary resource to individuals with disabilities or their families in development and implementation of the plan of support.

C. Individuals and families receiving supports will be expected to assume personal responsibility for use of the individual and family support funds.

D. When participants have demonstrated the need for assistance in overseeing supports, which maintain health, safety and protection from abuse, neglect or exploitation, the LGE will be responsible to provide active support to that individual or family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:668 (April 2017).

#### **§1123. Eligible Supports**

A. Individual and family support program supports are intended to maintain maximum flexibility in meeting the needs of eligible individuals with developmental disabilities and their families, which exceed those normally met by use of existing LGE funding and other resources of the LGE, family and community. Because every individual is unique, supports will be unique and will change with time and the circumstances of the individual and family needing supports.

1. Examples of eligible supports include, but are not limited to:

- a. special equipment/supplies;
- b. special nutrition/clothing;
- c. special therapies;
- d. respite;
- e. medical expenses;
- f. medications;
- g. therapeutic services;
- h. personal care attendant;
- i. home modifications;
- j. crisis intervention;
- k. family training/therapies

- l. homemaker services;
- m. vehicle modifications;
- n. recreation services;
- o. communication services;
- p. transportation;
- q. counseling services;
- r. home health services;
- s. support coordination;
- t. specialized utility costs;
- u. sitter services;
- v. equipment and supplies;
- w. adaptive equipment;
- x. nutritional supplies;
- y. personal assistance services;
- z. companion/roommate services;
- aa. special evaluations;
- bb. therapeutic nursing services;
- cc. family subsidy;
- dd. vocational/employment supports;
- ee. specialized diagnosis and evaluation;
- ff. and dental/medical care not otherwise available.

2. Individual and family support funds will not supplant other sources of funding. Eligible supports are limited to those for which an individual or family is not eligible through existing public or private programs or other funding sources.

3. Individual and family support funds can be used to supplement other sources of payment only when that funding is deemed by the developmental disabilities director to be insufficient to meet existing needs and is fully documented as such in the participant record.

4. Financial subsidy does not reflect a growth in family income; it will not be used in calculations for eligibility for public entitlements except for ineligibility to participate in the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:668 (April 2017).

#### **§1125. Ineligible Supports**

A. Supports ineligible for payment by individual and family support funding include:

1. items or supports for which an individual or family is routinely eligible under existing programs, such as Medicaid state plan services, home and community-based waiver services, local educational organization, etc., unless there is sufficient documented justification that the specific needs of the individual or family exceed existing policy guidelines;

2. items or supports for which a school-aged (3-22 years) child is eligible as a "related service" under Public Law 94-142, or, which an EarlySteps eligible child/family is entitled to receive as part of the EarlySteps system, unless there is sufficient documentation of efforts to address the need through the child's individualized education program (IEP) or IFSP conference, and to pursue due process if warranted;

3. payments to related persons or unrelated persons who reside in the home of the participant, unless such payment is a part of a contracted arrangement for persons living independently in the community;

4. behavior management for school-aged children, unless maladaptive behavior(s) will likely result in out-of-home placement in the absence of such supports;

5. funding for supports and/or equipment for individuals with developmental disabilities when needed only for the care giver's health, unless, such requests are based on supporting the care giver's long-term ability to maintain the participant in the home and community; and

6. funding for any costs associated with the participant's individual or family liability for employment of persons to provide individual and family support funded services, more specifically FICA taxes, workman's compensation insurance, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:669 (April 2017).

#### **§1127. Payment Mechanisms**

A. The developmental disabilities director, or designee, shall authorize all expenditures of individual and family support funds and shall have final discretion on the type of payment mechanism, with appropriate prior notifications to the executive director of a LGE as specified by the OCDD.

B. Individual and family support program supports may be provided through any legitimate and appropriate funding mechanism authorized by current Department of Health contracting or purchasing practices or the policies and procedures established by a LGE. This may include the use of individual agreements for goods and services, purchase orders (integrated statewide information system mechanism) for purchase of goods, and contracts for supports with either individuals or external agencies.

C. Documentation will be required for all individual and family support funds expended. This may take the form of receipts for goods or services, time-sheets for service delivery, utility statements, etc.

D. When an individual receiving individual and family support services moves to a region served by a different LGE and the service is still needed at the new location, the LGEs will negotiate the continuation of the funding of the service in order to ensure continuity of service.

E. The appropriate support coordinator will instruct the participant on the means to document delivery of supports, including providing appropriate billing forms and/or special instructions, both at the point of initiation of supports and quarterly thereafter for the duration of service provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:669 (April 2017).

#### **§1129. Fiscal Control of Use of Individual and Family Support Funds**

A. The plan of support for each recipient of individual and family support funds shall clearly reflect the intended utilization of supports and be specific to the type and level of

support to be received; conditions of delivery of service; and the frequency, duration, and effectiveness of the service.

B. The developmental disabilities director shall be responsible for the appropriate use of individual and family support funds in cooperation with the support coordinator to ensure that no support or service is funded, which is not clearly identified on an approved plan of support.

C. All individual and family support agreements will contain clear identification of any payroll and/or other taxes as the sole responsibility of the participant and not the LGE. No individual and family support sponsored reimbursement may be used in any way to defer the participant responsibility for payroll tax payment or deferral.

D. All questions about payroll or other taxes or other fiscal responsibilities of participants of individual and family support funds are to be referred to tax specialists for advice and/or resolution of questions. No OCDD or LGE employee may answer participant questions about legal obligations of the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:669 (April 2017).

#### **§1131. Monitoring the Plan of Support**

A. Support coordinators will maintain at least quarterly contact with the participant, with documentation to the record, for the duration of supports; contact can be face-to-face or by telephone except that home or vehicle modification(s) will be viewed by the support coordinator. Regardless of the manner of monitoring, a record of monitoring activities shall be maintained in the participant record at the LGE office.

B. Active plans of support will be monitored for the duration of support provision; the participant record will clearly indicate the period during which monitoring will occur and the point at which monitoring can be terminated.

C. Monitoring of supports shall address fiscal issues of whether receipts satisfy and conform to the conditions of delivery of the plan of support. Processing of receipts and billing forms shall not be considered an adequate monitoring of delivery of support.

D. Monitoring of the plan of support will involve follow-up of questionable fiscal practices, including attempts to recoup inappropriate payment if necessary. Such instances will include, but not be limited to, when adequate receipts are not submitted, when eligibility is in question, or when the individual or family has demonstrated questionable compliance with program policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:670 (April 2017).

#### **§1133. Regional Program Monitoring and Reporting**

A. Each LGE will conduct a supervisory review of at least 10 percent of the plans of support of individual and family support applicants and participants on an at least quarterly basis to ensure compliance with program guidelines and quality of service delivery to persons requesting and receiving individual and family support

program supports. This internal review shall be the responsibility of the LGE and supervisory personnel as designated by the developmental disabilities director.

B. Each LGE will monitor individual and family support funds allocated for its use and report in the format required by the OCDD central office. Periodic reports will be generated by the central data management system of the OCDD.

C. An annual review of LGE program operations will be completed by personnel of the OCDD central office as designated by the assistant secretary, and each LGE will work cooperatively with officials of authorized state or federal agencies to satisfy audit or monitoring requirements as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:670 (April 2017).

#### **§1135. Terminations**

A. Terminations occur when an individual and family support service has been approved and is then terminated for one of the reasons listed in Subsection B of this Section. This is not the same as a closure of request which occurs before a service is approved.

B. Terminations may be initiated by the LGE or individual or family receiving the individual and family support service for the any of the following reasons:

1. death of the participant;
2. fraud;
3. relocation of the individual receiving supports outside of Louisiana;
4. termination of program;
5. deterioration of participant health and/or functioning;
6. confirmed abuse, neglect or exploitation of participant (individual with developmental disabilities);
7. significant changes in family constellation;
8. participant request when the individual with developmental disabilities is of majority and legally competent;
9. substantial changes and failure to report such changes in individual and family circumstance that results in the participant becoming eligible for support from sources other than the individual and family support program, and the program is no longer the payor of last resort such as, but not limited to:
  - a. receipt of or certification of Medicaid services (new opportunities waiver; children's choice waiver; supports waiver; residential options waiver; early and periodic screening, diagnostics and treatment or EPSDT; personal care services or PCS; long term-personal care services or LT-PCS; community choices waiver; and adult day health care waiver);
  - b. trust funds; and
  - c. change in living arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:670 (April 2017).

### **§1137. Appeals**

A. Persons requesting individual and family support funds and recipients of supports who have been denied supports or had supports reduced or terminated, have access to the Division of Administrative Law-Louisiana Department of Health (LDH) section.

B. Applicants and recipients of supports will be informed of their right of appeal and of the process of appeal when a determination of whether individual and family support funds will or will not be made available and at what level, and at termination of supports.

C. Appellants will have 30 days from the date of notification of the action to register an appeal of that action.

D. To make an appeal, individuals can contact either their support coordinator or the LGE office by telephone, in writing or in person, for assistance.

E. The appellant, with or without the assistance of the support coordinator, will be responsible for completing the appropriate documentation and forwarding it to the Division of Administrative Law-LDH section as set forth by the OCDD.

F. The LGE will cooperate with the Division of Administrative Law to provide information as appropriate to complete the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:671 (April 2017).

Rebekah E. Gee MD, MPH  
Secretary

1704#031

### **RULE**

#### **Department of Public Safety and Corrections Office of State Police**

#### **Concealed Handgun Permit (LAC 55:I.Chapter 13)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., R.S. 40:1379.1, R.S. 40:1379.3, R.S. 40:1381, and R.S. 40:1382, has amended its rules regulating the issuance of concealed handgun permits.

### **Title 55**

### **PUBLIC SAFETY**

### **Part I. State Police**

#### **Chapter 13. Issuance of Concealed Handgun Permits**

#### **§1301. Applications and Permits**

A. The rules contained herein are promulgated by the Concealed Handgun Permit Unit of the Department of Public Safety and Corrections, Office of State Police, in order to set forth the policies and procedures applicable to the issuance of concealed handgun permits to Louisiana citizens who qualify for such permits pursuant to R.S. 40:1379.1 and 40:1379.3; to provide statewide uniform standards for issuing permits to carry concealed handguns; and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of these rules. Any subsequent restatement,

repeal, or amendment of these rules shall be in accordance with the aforementioned considerations.

B. Applicability. The policies and procedures provided herein shall be applicable to all Louisiana citizens who are eligible for a statewide concealed handgun permit.

C. Duties and Responsibilities. Persons issued concealed handgun permits have the authority only to carry a concealed weapon and are regarded as private citizens in all matters of law with no special powers or authority accruing by virtue of the concealed handgun permit.

D. Application. Eligible persons shall be entitled to receive the concealed handgun permit, as set forth above; provided that all requirements of the superintendent of state police relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the superintendent of state police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. Suspension/Revocation. The superintendent of state police or his designee may suspend or revoke concealed handgun permits when conditions and/or circumstances are such that the holder of such permit can no longer show need or when the holder commits acts contrary to law or uses the permit for self aggrandizement or in an unreasonable and imprudent manner.

F. Arrest Record. If the applicant has an arrest record, he shall present a notarized statement from the clerk of court or district attorney of the parish or county in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1279 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:671 (April 2017).

#### **§1303. Issuance of Special Officer's Commission**

A. Purpose. The purpose of this regulation is to set forth the policies and procedures applicable to the issuance of special officer's commission to persons showing need for such commissions as required in accordance with the provisions of title 40, section 1379.1 of the *Louisiana Revised Statutes*.

B. Applicability. The policies and procedures provided herein shall be applicable to all officers, agents, and employees of agencies, boards and commissions of the state of Louisiana; of local government subdivisions; of private institutions or others who display a need for statewide police power and power to arrest, are bonded and meet other restrictions as required.

C. Duties and Responsibilities. Authorized persons commissioned as special officers shall have the direct authority to perform those activities specified on the special officer's commission card. However, when the holder of a special officer's commission is not performing those tasks specified on the commission card, he shall be regarded as a private citizen and his commission shall not be in effect.

D. Application. The superintendent of state police shall be authorized to issue, at his discretion, a special officer's commission from the Office of State Police. All requirements of the superintendent of state police relating to



application shall be satisfied. Applications shall be submitted in the manner prescribed by the superintendent of state police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. **Suspension/Revocation.** The superintendent of state police may revoke or suspend special officer's commission when conditions and/or circumstances are such that the holder of a special commission can no longer show need or when the holder commits acts contrary to law or to the jurisdictional stipulations of the commission or through his action(s) or lack of action(s) brings discredit upon the state of Louisiana, its departments, agencies or commissions or its political subdivisions. Persons holding special officer's commissions are subject to the same statutory responsibilities and liabilities as are all other local and state law enforcement officers.

F. **Termination.** Special officer commissions will automatically expire one year from the date of issue or as otherwise provided by law.

G. **Qualifications and Requirements.** The following requirements shall be met before a special officer's commission will be issued. All applicants:

1. shall submit a letter which details the need for statewide police power and the power to arrest. If the applicant is employed and the nature of the employment is the basis for need of a special officer's commission, then, in addition to his letter, a detailed letter from the employer stating the need is necessary;

2. shall complete a detailed application and submit application along with the following documents:

- a. complete fingerprint file which has been prepared by a law enforcement agency;

- b. copy of birth certificate;

3. shall have completed the minimum hours of basic law enforcement training in accordance with the Council on Peace Officer Standards and Training, or possess related experience or ability equal to such training;

4. submit to and pass a comprehensive background investigation, said investigation to be conducted by the Louisiana State Police;

5. show proof of faithful service bond in the minimum amount of \$10,000; and

6. if the applicant has an arrest record, he shall present a notarized statement from the clerk of court or the district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:496 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1280 (May 2012), LR 43:671 (April 2017).

### **§1305. Definitions**

A. For the purposes of these rules, the following words and phrases shall be defined as:

*Addiction*—the habitual use of alcoholic beverages or any controlled dangerous substance as defined in R.S. 40:961 and 40:964.

*Applicant*—a person who has completed and submitted an application to the department seeking a concealed handgun permit.

*Application*—the forms and schedules prescribed by the department upon which an applicant seeks a permit or the renewal thereof. Application also includes information, disclosure statements, releases, certificates or any other form required by the department in the application process.

*Citizen*—any person legally residing in Louisiana immediately preceding the filing of an application for a concealed handgun permit.

*Concealed Handgun*—any handgun as defined in R.S. 40:1379.3(J)(1), which is carried on a person in such a manner as to hide or obscure the handgun from plain view.

*Department*—Louisiana Department of Public Safety and Corrections, Office of State Police.

*Deputy Secretary*—the deputy secretary of the Louisiana Department of Public Safety and Corrections who serves as the superintendent of the Office of State Police.

*Fixed-Case Marking Projectile*—any non-lethal simulated ammunition commonly referred to as 'simunition.'

*Fugitive from Justice*—a person who flees, evades, or escapes from any jurisdiction to avoid arrest, prosecution, or imprisonment for any criminal offense, which shall include outstanding traffic attachments or warrants, or to avoid giving testimony in any criminal proceeding.

*Illegal Alien*—any person without legal authority to enter or remain in the United States and who is not legally residing within the United States or any territory or possession of the United States.

*Law Enforcement Officer*—any individual who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest. For the purposes of this Section, this definition shall apply to the term "peace officer" and "police officer."

*Machine Gun*—any firearm which shoots or is designed to shoot more than one round without reloading and by a single function of the trigger.

*N.R.A.*—National Rifle Association.

*Permit*—the authorization issued by the deputy secretary of the Louisiana Department of Public Safety and Corrections pursuant to R.S. 40:1379.3 and these rules, which shall be valid for five years from the date of issuance for a five-year permittee, or for the lifetime of a permit holder for a lifetime permittee, unless revoked, suspended, or otherwise invalidated, and shall contain a permit number, date of expiration, and the name, address, date of birth, physical description, and photograph of the permittee.

*Permittee*—an individual who meets the qualifications as described in R.S. 40:1379.3 and these rules and to whom a concealed handgun permit has been issued.

*Pistol*—a handgun that has a short barrel and can be held, aimed, and fired with one hand and is capable of only firing a single round each time the trigger is pulled, which includes semi-automatic handguns.

*P.O.S.T.*—Council on Peace Officer Standards and Training.

*Resident*—a person who is legally domiciled in Louisiana.

*Revolver*—a pistol that has a rotating cylinder containing a number of firing chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin.

*Veteran*—any honorably discharged veteran of the Armed Forces of the United States including reserved components of the Armed Forces, the Army National Guard, the U.S. Public Health Service Commissioned Corps, and any other category of persons designated by the president in time of war or emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1280 (May 2012), LR 43:672 (April 2017).

### **§1307. Applications and Permits**

A. Application materials may be obtained by accessing the Louisiana State Police website at [www.lsp.org](http://www.lsp.org).

#### **B. Initial Applications**

1. All applications for a permit shall be submitted online or on forms provided by the department and mailed to:

Louisiana State Police  
Concealed Handgun Permit Unit  
P. O. Box 66375  
Baton Rouge, LA 70896

2. Applicants shall provide all additional information requested by the department within 10 business days of receipt of the request, unless an extension is granted by the department. If any applicant fails to provide all additional information requested by the department, the application shall be considered incomplete and shall be denied.

3. All applicants shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

4.a. For purpose of proof that the applicant is a resident of the state of Louisiana prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or valid Louisiana identification card.

i. An applicant shall have a Louisiana driver's license or identification card.

ii. In the event the applicant's Louisiana driver's license or Louisiana identification card has been issued within six months of application, proof of residency shall be established by any one of the following documents:

(a). United States passport;

(b). Louisiana voter registration card;

(c). any other documentation, which may adequately satisfy proof of compliance with the qualifications for residency.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

c. Applicants who claim Louisiana as their domiciliary state and are on U.S. military duty in another state shall submit a copy of their orders detailing them to such duty station, along with a copy of their military identification card. Applicants who do not claim Louisiana as their domiciliary state and are on U.S. military duty in this state shall submit a copy of their orders detailing them on permanent status to a duty station within this state. In addition, those applicants shall possess either a valid Louisiana driver's license or valid Louisiana identification card.

d. An applicant who is attending school in another state shall submit a copy of his school registration form and fee bill for each semester during the permit period that is applicable.

5. For purposes of proof that the applicant is at least 21 years of age, a photocopy of his valid Louisiana driver's license or valid Louisiana identification card which contains the applicant's date of birth shall suffice.

6. All application forms are to contain a properly notarized oath wherein the applicant swears that:

a. the information contained therein is true and correct;

b. the applicant has read the applicable law and these rules, and any other informational materials supplied by the department that pertain to concealed handgun permits;

c. the applicant agrees to comply with these rules and the law; and

d. the applicant understands that any omission or falsification of any information required in the application may subject the applicant to criminal penalties.

7. All applications shall contain the permittee's home and daytime telephone number and a permanent mailing address for receipt of correspondence and service of documents by the department.

8. All applications submitted to the department shall contain proof of competency with a handgun in accordance with §1311.

9. All applications shall include a properly executed affidavit, provided by the department, whereby the applicant agrees in writing to hold harmless and indemnify the department, the state or any peace officer for any and all liability arising out of the issuance or use of the concealed handgun permit.

10. Incomplete applications, including failure to pay fees, shall result in the rejection or denial of a permit application.

11. The applicant or permittee shall notify the department, in writing, of any change of address, name, phone number, or other information required in the application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website.

12. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and may be cause for denial, suspension, or revocation of the permit.

13. All paper applications shall be submitted with a certified check, money order or any other means of payment as approved by the department for the application or renewal fee as provided in §1307.B.14. An application is not complete unless it is submitted with the appropriate fee, is signed by the applicant, and contains all information required by the department.

14. All applicants shall submit with the application a non-refundable fee in the form of a certified check, money order or any other means of payment as approved by the department. The applicable fees are as follows:

a. for a five-year concealed handgun permit, the fee shall be \$125;

b. for a lifetime concealed handgun permit, the fee shall be \$500;

c. the above fees shall be reduced by one-half if the applicant is 65 years of age or older or if the applicant qualifies for the military discount as set forth in R.S. 40:1379.3(W)(1) on the date the application is received by the department;

d. an applicant who is a veteran shall be exempt from all fees associated with the five-year concealed handgun permit or the lifetime concealed handgun permit;

e. any applicant who has not continuously resided within the state of Louisiana for the 15 years preceding the submission of the initial application shall enclose an additional non-refundable \$50 fee. This additional fee shall not be reduced for applicants 65 years of age or older, or if the applicant qualifies for the military discount as set forth in R.S. 40:1379.3(W)(1).

C. Qualifications to Receive a Permit. To qualify for a concealed handgun permit, a citizen shall:

1. not be ineligible to possess a firearm under 18 U.S.C. 922(g); and

2. meet the requirements set forth in R.S. 40:1379.3 et seq.

D. Renewal of Permits

1. To renew a concealed handgun permit, a permittee shall file a renewal application no more than 120 days prior to the expiration of the permit and no later than the sixtieth day after expiration. Renewal applications submitted after the sixtieth day from expiration will not be accepted and the permittee shall complete a new original application with all documentation required for an original application.

2.a. A renewal application shall be considered filed with the department when the department receives the application and the fees are processed. The applicable renewal fees are as follows:

i. for a five-year concealed handgun permit, the fee shall be \$125;

ii. the above fees shall be reduced by one-half if the applicant is 65 years of age or older, or qualifies for the military discount on the date the application is received by the department.

3. An incomplete renewal application shall be denied or rejected by the department for failure to provide requested documents or appropriate fees. Proof of residency shall conform to B.4.a-B.4.a.ii.(c) of this Section.

4. Each permittee applying for a renewal of his permit shall complete additional educational training pursuant to requirements of §1311 within one year prior to submitting a renewal application and submit proof of training with the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1281 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:673 (April 2017).

### §1313. Code of Conduct of Permittees

A. General Provisions

1. All permittees shall comply with all applicable federal and state laws and regulations.

2. Any violation of R.S. 40:1379.3 or 40:1382 shall also constitute a violation of these rules.

3. Each permittee shall meet and maintain all qualifications necessary to possess a concealed handgun permit.

B. Duties and Responsibilities of the Permittee

1. A permittee armed with a handgun shall notify any police officer who approaches the permittee in an official manner or with an identified official purpose that he has a handgun on his person, submit to a pat down, and allow the officer to temporarily disarm him. Failure to comply with this provision shall result in a six-month automatic suspension of the permit.

2. A permittee is prohibited from carrying a concealed handgun on his person while under the influence of alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and R.S. 40:964. For purposes of these rules, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 40:964. When a law enforcement officer is made aware that a permittee is carrying a concealed handgun and the officer has reasonable grounds to believe that the permittee is under the influence of either alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and 40:964, the law enforcement officer may take temporary possession of the handgun and require the permittee to submit to a department-certified chemical test. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered. Failure of the permittee to comply with the provisions of this Section shall result in a six-month automatic suspension of the concealed handgun permit.

3. Each permittee shall notify the department in writing of any change of address, name, phone number, or other information required in any application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website. Failure to comply with this provision may result in suspension or revocation of the permit.

4. A permittee shall notify the department of any misdemeanor or felony arrest or issuance of any summons other than a minor traffic violation, but including all arrests for operating a vehicle as defined in R.S. 14:98(A)(1) while under the influence of alcohol or other substances, in this state or any other jurisdiction, within 15 days of the arrest or issuance of the summons. Notice shall be sent via certified mail, return receipt requested to the department's designee responsible for the issuance of concealed handgun permits and shall include the date of arrest or summons, the arresting or issuing agency, jurisdiction in which the arrest occurred,

the specific offense charged, whether the offense is classified as a felony or misdemeanor, the results of any chemical test which may have been administered in conjunction with the arrest or summons, a copy of any citation or summons issued, and any other pertinent information regarding the arrest or summons. Failure to notify the department in accordance with this Section shall result in a 90-day suspension of the permit.

5. When a permittee ceases to reside within this state, the permit automatically becomes invalid and the permittee shall return the concealed handgun permit to the department within five business days from the date he ceases to reside within this state. Upon receipt of the permit, the permit status shall be changed to "canceled." A new application shall be completed if the permittee resumes his resident status.

6. A permittee shall immediately return the concealed handgun permit to the department upon automatic suspension or revocation of the permit. If the permit is under suspension, failure to immediately return the permit to the department may be grounds for revocation.

7. A permittee shall immediately inform the department in writing of any handgun related accident, discharge, incident, injury, or death involving any permittee. Failure to do so shall be grounds for suspension or revocation of an existing permit or denial of a renewal application.

8. Upon death of any permittee, the permittee's estate representative shall notify the department and return the concealed handgun permit to the department.

9. Any permittee or applicant who is subject to any preliminary or permanent injunction in any family or domestic dispute, or any other protective order issued pursuant to law, shall notify the department of the caption of the suit including the suit or proceeding number, the date of the issuance of the injunction or court order, and provide a signed copy of the court's order within three days of the issuance of any such order. Upon the issuance of the injunction or court order, the permit shall be automatically suspended and the department may revoke or deny the permit in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:850 (September 1996), amended LR 28:1484 (June 2002), LR 38:1284 (May 2012), LR 43:674 (April 2017).

### **§1315. Appeal and Hearing Procedures**

#### **A. Notice of Permit Denial and Appeal**

1. An applicant who is denied a concealed handgun permit shall be notified in writing by the department. Such notice shall comply with R.S. 49:955(B). Upon receipt of such notice, the applicant shall have two options.

a. Option 1—Informal Review. The applicant shall have 10 business days to request an informal review of documentation and evidence provided by the applicant setting out reasons the denial should be considered improper. Should the applicant remain dissatisfied with the department's decision following this review process, the applicant may appeal this decision within 20 business days of receipt of the department's decision by requesting an

administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

b. Option 2—Formal Appeal. The applicant may appeal the denial by the department in writing within 30 days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

2. A request for an administrative hearing shall be made in writing and sent to the department. If no request for a hearing is timely made, the denial shall become final.

#### **B. Notice of Suspension, Revocation or Fine**

1. A permittee whose permit is revoked, suspended, or who is issued a fine shall be notified in writing by the department. Such notice shall be in compliance with R.S. 49:955(B), and the action shall be considered to be immediately in effect.

2. Upon receipt of such notice, the permittee shall have 10 business days to request, in writing, a review of the department's action. The permittee should provide the department with relevant information which might have some bearing on the department's action. The permittee should include any documents or other evidence he wishes the department to consider.

3. If the permittee is not satisfied with the outcome of the department's review, he may request judicial review pursuant to the Administrative Procedure Act, R.S. 49:964.

#### **C. General Provisions**

1. Upon receipt of a request for any review, the deputy secretary or his designee shall review the department's action considering the information submitted, and affirm, modify, or reverse the department's action. Written notice of the department's decision to affirm, modify or reverse the department's action shall be provided to the permittee.

2. Except as otherwise provided by these rules, any notice shall be served by certified mail, registered mail, or certificate of mailing to the permanent address that is provided in the application, or latest amendment thereto, on file with the department. If any incorrect or incomplete address has been supplied to the department by the applicant or permittee, such that service cannot be successfully completed, or the applicant or permittee fails to accept properly addressed mail, notice shall be presumed to have been given.

3. No applicant or permittee shall be allowed to carry a concealed handgun while any such appeals or considerations are pending.

4. Any fine levied by the department which is adjudicated to a final judgment shall be paid within 15 calendar days of said judgment. Failure to pay such a fine shall result in suspension or revocation of the permit.

5. In cases of serious violations of the law or these rules, or in situations in which the law calls for automatic suspension or revocation, or violations which present a danger to the public health, safety or welfare, the department may provide notice by telephone or hand delivery. Such notice shall be promptly documented and confirmation in writing shall be provided to the permittee.

6. Any request for an administrative hearing shall be made in writing and sent to the department within the delays allowed by these rules. If no request for a hearing is timely made, the action and/or penalty shall become final.

7. Any pre-hearing discovery for the administrative hearing shall be conducted pursuant to R.S. 49:956.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996), amended LR 38:1285 (May 2012), LR 43:675 (April 2017).

Jason Starnes  
Chief Administrative Officer

1704#002

## **RULE**

### **Department of Public Safety and Corrections Office of State Police**

Criminal Record Search (LAC 55:I.101 and 207)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., R.S. 15:587, R.S. 15:575, and R.S. 40:1203.2, has amended its rules regulating the charging and collecting of fees for the processing of finger print cards and the processing of requests for criminal history information.

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part I. State Police**

#### **Chapter 1. Criminal Records Unit**

#### **§101. Charging and Collecting of Fee for Processing of Finger Print Cards**

A. Pursuant to the provisions of R.S. 15:587, as amended, the Bureau of Criminal Identification and Information (Criminal Records Unit), announces it will begin collecting a \$26 processing fee to offset the costs of conducting a criminal record search for the purpose of screening applicants for employment or license.

B. This fee will not be charged to law enforcement agencies conducting criminal investigations, applicants for

full-time employment with a bona fide criminal justice agency, or to applicants for employment at race tracks.

C. Payments of the processing fee shall be made in the form of a cashier's check or money order payable to the Louisiana Bureau of Criminal Identification and Information Fund and payment shall accompany the request for such information.

D. Collection of the processing fee shall begin on February 20, 1986 and shall be applied to all requests received on and after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February 1986), amended LR 43:676 (April 2017).

#### **Chapter 2. Criminal History Background Checks on Licensed Ambulance Personnel and Nonlicensed Persons**

#### **§207. Request for Criminal History Information**

A. A request for the bureau to conduct a criminal history check authorized by R.S. 40:1203.2 shall be made on a form provided by the bureau and submitted to it by an employer or authorized agency.

B. Each request for a criminal history check authorized by R.S. 40:1203.2 submitted to the bureau shall be accompanied by the fee of \$26 as established by R.S. 40:1203.2(B)(2) and LAC 55:I.101.A.

C. Each request for a criminal history check submitted to the bureau by an authorized agency shall be accompanied by a letter of engagement or contract with the employer as proof that the authorized agency may request and receive criminal history information on behalf of the employer. The results of each criminal history check submitted by an authorized agency on behalf of an employer will be reported to the authorized agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq., and R.S. 40:1203.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:877 (May 1999), amended LR 43:676 (April 2017).

Jason Starnes  
Chief Administrative Officer

1704#001

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Animal Health and Food Safety and Board of Animal Health

Poultry (LAC 7:XXI.101, 531, 533, 1103 and 1105)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry (“department”), through the Office of Animal Health and Food Safety and the Board of Animal Health intend to amend LAC 7:XXI.101, 531, 533, 1103 and 1105 relative to poultry. The proposed amendments change all references to the Livestock Sanitary Board to the Board of Animal Health. The proposed amendments also update requirements for poultry to be admitted to fairs, livestock and poultry shows, trade days and swap meets. Finally, the proposed amendments update requirements for the sanitary disposal of dead poultry.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXI. Animals and Animal Health

#### Chapter 1. General Provisions; Administrative Matters

#### Subchapter A. General Provisions

#### §101. Definitions

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*Certificate of Approval*—a document issued to a commercial poultry producer by the Board of Animal Health approving a specific method of disposing of dead poultry to be used by the commercial poultry producer.

*Certificate of Veterinary Inspection (CVI)*—a record of an animal's health recorded on an official form. These certificates are valid for 30 days only unless an extension is allowed by the Board of Animal Health.

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*Destroyed*—condemned under state or federal authority and put to death by consignment to slaughter or by humane euthanasia.

*Direct to Slaughter*—the shipment of cattle or poultry from the premises of origin directly to a slaughter establishment without diversion to assembly points, such as auctions, public stockyards and feedlots.

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*Livestock*—cattle, sheep, swine, goats, horses, mules, burros, asses or other farm animals of all ages including poultry.

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*No Gross Lesion (NGL) Animal*—an animal in which a lesion(s) of tuberculosis is not found during slaughter inspection. (An animal with skin lesions only will be considered in the same category as an NGL.)

*National Poultry Improvement Plan (NPIP)*—cooperative industry, state, and federal program that offers poultry management, sanitation, testing, and monitoring procedures to improve poultry and poultry products in the U.S.

*Official Brucellosis Vaccinates*—calfhood or adult vaccinates as outlined in §723.E and F.

*Official Identification for Scrapie*—an electronic identification, state or federally approved tamper-resistant ear tag, or a flank or ear tattoo, which has been recorded in a book of record of a sheep or goat registry or association. When an animal is identified by an ear or flank tattoo either a registration certificate or a certificate of veterinary inspection shall accompany the animal. In the case of goats registered with the American Dairy Goat Association, the tattoo may be applied at the tail web.

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*Official State Agency*—the state authority recognized by the USDA to cooperate in the administration of the NPIP.

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*Poultry*—chickens, ducks, turkeys, pigeons, guinea fowl, geese, peafowl and pheasants and other domestic feathered life, including hatched eggs or fertilized eggs.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:1170 (June 2002), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2336 (November 2008), LR 35:1465 (August 2009), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3246 (December 2013), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:935 (May 2014), LR 43:

#### Chapter 5. Entry Requirements to admit Animals into this State and into Events

#### Subchapter D. Specific Entry Requirements for Poultry and Other Birds

#### §531. Health Requirement Governing Admission of Poultry (Formerly §701)

A. All poultry entering the state must meet the general requirements of §501 and the following specific requirements.

1. All out of state poultry or poultry eggs for hatching, shall not be imported into Louisiana unless they originate from pullorum/typhoid negative tested flocks under the supervision of the National Poultry Improvement Plan (NPIP) or in flocks that have passed a negative blood test for pullorum/typhoid disease, under the supervision of the proper official state agency, within 30 days prior to entry.

2. All out of state poultry consigned to a recognized slaughter establishment may enter the state on a aybill, which must include the name and address of the consignor (seller), the number of birds, and the name and address of

the slaughter establishment. If, in the opinion of an authorized agent of the Board of Animal Health, poultry consigned to a recognized slaughter establishment is of questionable health, the entire shipment will be quarantined immediately, and consigned to a poultry establishment maintaining federal inspection for wholesomeness, or be returned to the state of origin.

3. The state veterinarian may prohibit the entry of birds, eggs, or poultry by-products into Louisiana from any state which has an area under quarantine due to a contagious and/or infectious disease which, in his/her opinion, may seriously threaten the health of Louisiana poultry.

4. All pet stores or vendors selling psittacines must report any increased mortalities to the office of the state veterinarian to determine if birds/samples should be examined for evidence of chlamydiosis.

5. Birds determined to be infected with, or exposed to, exotic new-castle disease, shall be destroyed without compensation to the owner.

6. All poultry brought into Louisiana shall be accompanied by a VS Form 9-2 or 9-3, indicating the flock of origin is under the National Poultry Improvement Plan and is free of *Salmonella pullorum* (pullorum) and *Salmonella gallinarum* (typhoid) or a Certificate of Veterinary Inspection (CVI) that reports those negative results. If the flock of origin is not under the National Poultry Improvement Plan, the birds must be accompanied by a test report (9-2) from an approved laboratory or official state agent, or CVI indicating the birds were tested negative for *Salmonella pullorum/typhoid* within 30 days prior to entry into Louisiana. See §533 for show, fair, trade days, and swap meet requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), LR 14:224 (April 1988), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:946 (May 2014), LR 43:

**§533. Admittance of Poultry to Fairs, Livestock and Poultry Shows, Trade Days and Swap Meets (Formerly §703)**

A. All poultry of Louisiana origin going to Louisiana fairs, livestock and poultry shows, trade meets, and swap meets shall be accompanied by a Form VS 9-2 or CVI, indicating the flock of origin is a participant under the NPIP and has tested free of *Salmonella pullorum* (pullorum) and *Salmonella gallinarum* (typhoid). If the flock of origin is not a participant under the NPIP, the birds of breeding age must be accompanied by a Form VS 9-2 or CVI indicating the birds were tested negative for pullorum/typhoid (P/T) within 60 days prior to admittance to in-state fairs, livestock and poultry shows, trade days, or swap meets. These birds must have leg or wing band identification or a group/lot identification number recorded on a CVI.

B. All poultry from states other than Louisiana, going to Louisiana fairs, livestock and poultry shows, trade meets, and swap meets shall be accompanied by a Form VS 9-2, 9-3, or CVI indicating the flock of origin is a participant under the NPIP and has tested free of *Salmonella pullorum* (pullorum) and *Salmonella gallinarum* (typhoid). If the flock of origin is not a participant under the NPIP, the birds of

breeding age must be accompanied by a Form VS 9-2, 9-3, or CVI indicating the birds were tested negative for pullorum/typhoid (P/T) within 30 days prior to admittance to Louisiana fairs, livestock and poultry shows, trade days, or swap meets. These birds must have leg or wing band identification or a group/lot identification number recorded on a CVI.

C. All sanctioned American Poultry Association and American Bantam Association shows held in Louisiana may provide a licensed, accredited private veterinarian to inspect birds at coop-in at these shows, at the expense of the sponsoring club, in lieu of a CVI. They must show proof of test negative status for P/T as stated in Subsection A of this Section. Any bird showing signs of illness will be quarantined or barred from entry if suspected to have a contagious disease (at the sole discretion of the veterinarian). No bird without proof of negative P/T status will be allowed to show. The event sponsor should call the state veterinarian office at (225) 925-3980 to ensure there are no travel restrictions for entry into Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 12:503 (August 1986), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:947 (May 2014), LR 43:

**Chapter 11. Poultry and Other Birds (Formerly Chapter 7)**

**§1103. Slaughter and Testing of Poultry of Questionable Health (Formerly §705)**

A. Poultry of questionable health in the opinion of an authorized agent of the Board of Animal Health that are consigned to a recognized slaughter establishment within Louisiana will be quarantined and the entire shipment reconsigned to a slaughter establishment maintaining federal inspection for wholesomeness, or returned to the place of origin.

B. All hatcheries and hatchery supply flocks within the state must be qualified as U.S. pullorum/typhoid clean or have met equivalent requirements for pullorum/typhoid control under official state supervision. If other domesticated fowl, with the exception of waterfowl, are maintained on the same premises as the participating flock, freedom from pullorum/typhoid infection shall be demonstrated by an official blood test of each of these fowl.

C. All flocks which test positive for *Salmonella pullorum* or *Salmonella galinarum* shall be followed by an investigation by the official state agency to determine the origin of the infection.

D. All flocks found to test positive for pullorum or typhoid shall be quarantined until marketed or destroyed under the supervision of the official state agency or until subsequently blood tested at intervals of at least 21 days and until two consecutive negatives tests are obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:812 (October 1989), repromulgated by the Department of Agriculture

and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:968 (May 2014), LR 43:

**§1105. Sanitary Disposal of Dead Poultry  
(Formerly §707)**

A. All commercial poultry producers are required to obtain a certificate of approval for their disposal method from the Louisiana Department of Agriculture and Forestry (LDAF). Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Dead poultry must be removed from the presence of live poultry within 24 hours after death. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods.

1. Incinerators. Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Board of Animal Health.

2. Rendering Plant. Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers for up to 24 hours as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Board of Animal Health.

3. Composting. The design, construction, and use of compost units such as sheds or drums must be approved by an authorized representative of the Board of Animal Health.

C. Burial. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over four weeks of age on the same premises within a 24-hour period of time, the dead poultry may be disposed of by on-site burial. The state veterinarian's office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial. An exemption waiver will be submitted to the grower, LDAF and commercial poultry management once a burial site has been inspected and approved by the LDAF representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), LR 17:874 (September 1991), LR 18:1355 (December 1992), LR 20:863 (August 1994), LR 23:949 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:968 (May 2014), LR 43:

**Family Impact Statement**

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;

2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

**Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to John Walther, Assistant Commissioner of Animal Health and Food Safety, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 4000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on June 5, 2017. No preamble is available.

Mike Strain, DVM  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Poultry**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in any costs or savings to state or local governmental units. This rule updates definitions used throughout the current poultry regulations, updates requirements for poultry to enter into Louisiana and requires all pet stores or vendors selling psittacines to report all mortalities to the State Veterinarian. This rule also updates requirements for admittance of poultry to



fairs, livestock and poultry shows, trade days and swap meets, updates requirements for the sanitary disposal of dead poultry, and replaces all references of Livestock Sanitary Board to Board of Animal Health.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in an increase or decrease in revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any person wanting to bring poultry to a fair, livestock or poultry show, trade day or swap meet will be subject to the requirements set forth in Rule 533. Rule 533 provides that poultry shows may provide licensed, accredited private veterinarians to inspect birds at these shows, at the expense of the sponsoring club, in lieu of a Certificate of Veterinary Inspection. If a show chose to have a veterinarian on site for the show, there would be a cost to the show's sponsor associated with that decision.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to have an effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1704#047

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103, 305, 309, 311, 320, 707, 901, 902, 903, 1101, 1103, 1105, 1107, 1109 and 1111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §103. Definitions; §305. General Certification. Requirements for All Child Care Providers; §309. Specific Certification and Registration Requirements for Family Child Care Providers; §311. Specific Certification Requirements for In-Home Child Care Providers; §320. Suspension of Payments to Providers; §707. Credit for Early Learning Center Directors and Staff; §901. Authority; §902. Definitions; §903. Participation in LA Pathways; §1101. Authority; §1103. Definitions; §1105. Unified Quality Rating System for Type III Early Learning Centers; §1107. Participation; §1109. Unified Quality Rating System Tiered Bonus Payments; and 1111. Termination.

The Louisiana School Readiness Tax Credits (SRTC) help the child care sector improve quality and access for at-risk children. Pursuant to Act 394 of the 2007 Regular Legislative Session, the package of five tax credits serve as an important incentive for: families to choose quality rated centers; providers to serve vulnerable, at-risk children whose parents could not otherwise afford quality care; directors and staff to pursue additional education and/or credentials; businesses to donate to child care centers to help improve quality; and businesses or individuals to donate to resource and referral centers in order to help improve child care quality within a region.

Since the passage of Act 3 of the 2012 Louisiana Regular Legislative Session, Louisiana has made great progress toward unifying the system that prepares all children for success. The proposed revisions align the tax credits with the early childhood unified rating system and child care teacher preparation system. The proposed revisions also align policy with federal mandates within the Louisiana Child Care and Development Fund State Plan.

## Title 28

### EDUCATION

#### Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

##### Chapter 1. Child Care Assistance Program

##### §103. Definitions

*Automated Child Care Time and Attendance*—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance data. This system may utilize an adult's finger image or IVR interactive voice response (IVR) as a mechanism for capturing this data.

\* \* \*

*Family Child Care Provider*—one or more individuals who provides child care services for fewer than 24 hours per day per child, unless care in excess of 24 hours is due to the nature of the parent's work, for six or fewer children, in a private residence other than the child's residence.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:

##### Chapter 3. CCAP Provider Certification

##### §305. General Certification Requirements for All Child Care Providers

A. To be certified as a CCAP provider, a child care provider must meet the following requirements:

1. ...
2. email address. Provide a current email address and notify the department immediately upon a change in such email address by submitting written notice to the LDE by fax or email;
3. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 9858 et seq., 45 CFR Parts 98 and 99, R.S. 17:407.28 and R.S. 17:407.61 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), LR 43:

##### §309. Specific Certification and Registration Requirements for Family Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a family child care provider must meet the following requirements, which include but are not limited to the requirements for registration as a family child care provider pursuant to R.S. 17:407.61 et seq.

1. - 2. ...
3. Telephone. Have a working telephone that is capable of receiving incoming and making outgoing calls and that is available at all times in the residence in which

care is being provided. When a landline is used to operate the time and attendance equipment, a secondary phone number must be provided to the LDE. The provider shall notify the LDE immediately upon a change in such phone numbers by submitting written notice to the LDE by fax or email.

4. - 7.a. ...

b. A satisfactory CBC is one that shows no arrests for any crime listed in R.S. 15:587.1(C), or if such an arrest is shown, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or *nolo contendere* shall be deemed to be a conviction.

8. - 10.b.v. ...

c. medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

11. - 18. ...

19. Inspections. Allow inspection of the residence where care is provided by department staff and other authorized inspection personnel and parents of children in care, during normal working hours or when children are in care.

B. Family child care providers receiving CCAP payments or certified to receive CCAP payments shall be inspected no less than annually by department staff or other authorized inspection personnel.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016), LR 43:

### **§311. Specific Certification Requirements for In-Home Child Care Providers**

A. To be certified as a CCAP provider, in addition to the requirements in §305, an in-home care provider must meet the following requirements which include, but are not limited to, the requirements for registration as an in-home provider pursuant to R.S. 17:407.61 et seq.

1. ...

2. Telephone. Have a working telephone that is capable of receiving incoming and making outgoing calls and that is available at all times in the home in which care is being provided. When a landline is used to operate the time and attendance equipment, a secondary phone number must be provided to the LDE. Notify the LDE immediately upon a change in such phone numbers by submitting written notice to the LDE by fax or email.

3. - 6.a. ...

b. A satisfactory CBC is one that shows no arrests for any crime listed in R.S. 15:587.1(C), or if such an arrest is shown, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or *nolo contendere* shall be deemed to be a conviction.

7. - 9.b.v. ...

c. medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

10. - 17. ...

18. Inspections. Allow inspection of the home where care is provided by LDE staff and other authorized inspection personnel during normal working hours or when children are in care.

B. In-home child care providers receiving CCAP payments or certified to receive CCAP payments shall be inspected no less than annually by LDE staff or other authorized inspection personnel.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016), LR 43:

### **§320. Suspension of Payments to Providers**

A. When the LDE determines a provider is not in compliance with an administrative requirement, the LDE may send written notice by mail or email informing the provider of the administrative noncompliance and requiring that the provider come into compliance.

B. If the provider does come into compliance within 14 calendar days of such notice, the LDE may suspend payments to the provider until the provider is in compliance.

C. The LDE shall notify the provider by email or fax that it has suspended the provider's payments within two calendar days of suspending the payments and shall include language informing the provider that it has an additional 14 calendar days in which to come into compliance or its certification may be terminated in accordance with Section 321.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 7. Administration of School Readiness Tax Credits**

### **§707. Credit for Early Learning Center Directors and Staff**

A. - B. ...

C. Each early learning center director and staff member will also have to verify that he/she has worked at the same early learning center for at least six months in the calendar year and for an average of at least 30 hours per week, unless otherwise approved by the LDE.

D. ...

E. The maximum number of directors at an early learning center site who may receive the director credit in any given year is based on licensed capacity of the early learning center as indicated below:

Licensed Capacity	Maximum Number of Directors
15 or fewer children	1
16-50 children	2
51-100 children	3
101-200 children	4
201 or more children	5

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2118 (October 2015), amended LR 43:

## **Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)**

### **§901. Authority**

A. The Louisiana pathways early learning center career development system (LA pathways) is the state practitioner registry maintained by the LDE or its contractor. LA pathways offers early learning center staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training, educational attainment and experience in the field of early childhood care and education.

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015), amended LR 43:

### **§902. Definitions**

*Administrator Certificate*—certificate awarded to a director who has 75 clock hours in approved administrative training categories or two college courses in administration.

*Administrator Track for LA Pathways*—professional career ladder registry designed for administrators in early learning centers that recognizes individuals based on the educational attainment and professional participation.

*Approved Administrative Training Categories*—training categories that promote and support administrative skills for directors, as approved by LA Pathways.

*Approved Core Knowledge (CDA) Subject Areas*—subject areas approved by the Council for Professional Recognition to count towards the CDA credential.

*Approved Early Childhood Diploma*—early childhood career diploma approved by LA Pathways.

*CDA Credential*—See Child Development Associate Credential.

*Child Development Associate (CDA) Credential*—nationally recognized credential in early childhood education administered by the Council for Professional Recognition.

*Classroom Track for LA Pathways*—professional career ladder registry designed for classroom staff within early learning centers that recognizes individuals based on the educational attainment and commitment to the field.

*Early Childhood Ancillary Certificate*—certificate issued by the LDE that allows a qualified person to act as a lead teacher within a type III early learning center.

*Early Childhood Professional Organization*—organization that provides professional training or advocacy opportunities for individuals in the early childhood field.

*LA Pathways*—See Louisiana Pathways Early Learning Center Career Development System.

*Louisiana Pathways Early Learning Center Career Development System (LA Pathways)*—state practitioner registry maintained by the LDE or its contractor that registers early learning center directors and staff based on training, education, experience and professional activities.

*National Administrator Credential*—administrator credential issued by a national organization recognized by LA Pathways

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, amended LR 43:

### **§903. Participation in LA Pathways**

A.1. Any individual working or planning to work in the early learning center industry as a director of an early learning center is eligible to enroll in LA pathways by completing and submitting an application and the required documents to LA Pathways.

2. Any individual working or planning to work in the early learning center industry as a staff member of an early learning center is eligible to enroll in LA pathways by either completing and submitting an application and the required documents to LA pathways or by submitting an application for an early childhood ancillary certificate to the LDE.

3. LA pathways will register early learning center directors and staff according to requirements based on training and education, experience and professional activities, as approved by the LDE. Participation is voluntary.

4. The state superintendent of education, pursuant to authority delegated by BESE, in specific instances, may waive compliance with a requirement in this Chapter if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children are not imperiled. If it is determined that the individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

B. Requirements for the Administrator Track for LA Pathways through December 31, 2017

1. - 6.a.iv. ...

v. related bachelor's degree with three college courses in early childhood or child development.

6.b. - 7.c.ii. ...

iii. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; and administrator certificate; or

iv. related bachelor's degree with six college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

7.d. - 8.e.i. ...

C. Requirements for the Administrator Track for LA Pathways beginning January 1, 2018

1. Director I

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. 30 clock hours in approved administrative training categories; or

iii. related associate degree or 30 hours toward associate degree with four college courses in early childhood or child development.

b. Professional activity requirements:

i. membership in an early childhood professional organization.

2. Director II

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

- ii. 45 clock hours in approved administrative training categories or national administrative credential; or
- iii. associate degree in early childhood or child development; or
- iv. related associate degree with four college courses in early childhood or child development; or
- v. related bachelor's degree with three college courses in early childhood or child development; or
- vi. has met the director qualifications set forth in §1709 of Bulletin 137 and been the director for at least one year of an early learning center with a 3-star quality rating on July 1 of the calendar year in which credit may be claimed.
- b. Professional activity requirements:
  - i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, or attendance at a conference or professional event.
- 3. Director III
  - a. Training and education requirements:
    - i. CDA credential and administrator credential; or
    - ii. approved early childhood diploma and administrator certificate; or
    - iii. associate degree in child development or early childhood, and administrator certificate; or
    - iv. bachelor's degree in early childhood or child development, and administrator certificate; or
    - v. related bachelor's degree with six college courses in early childhood or child development, and administrator certificate; or
    - vi. has met the director qualifications set forth in §1709 of Bulletin 137 and been the director for at least one year of an early learning center with a 4-star quality rating on July 1 of the calendar year in which the credit may be claimed.
  - b. Professional activity requirements:
    - i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event.
- 4. Director IV
  - a. Training and education requirements:
    - i. master's degree in early childhood, child development or early childhood administration, and administrator certificate; or
    - ii. related master's degree with eight college courses in early childhood or child development, and administrator certificate; or
    - iii. has met the director qualifications set forth in §1709 of Bulletin 137 and been the director for at least one year of the early learning center with a 5-star quality rating on July 1 of the calendar year in which the credit may be claimed.
  - b. Professional activity requirements:
    - i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, or attendance at a conference or professional event.

- D. Requirements for the Classroom Track for LA Pathways until December 31, 2017
  - 1. Early Learning Center Staff I
    - a. Training and education requirements:
      - i. as required by Louisiana early learning center licensing regulations.
    - b. Experience requirements:
      - i. none.
    - c. Professional activity requirements:
      - i. encouraged to participate in an early childhood professional organization.
  - 2. Early Learning Center Staff II
    - a. Training and education requirements:
      - i. 12 clock hours of instruction in approved core knowledge (CDA) subject areas.
    - b. Experience requirements:
      - i. minimum six months.
    - c. Professional activity requirements:
      - i. encouraged to participate in an early childhood professional organization.
  - 3. Early Learning Center Staff III
    - a. Training and education requirements:
      - i. 30 clock hours of instruction in approved core knowledge (CDA) subject areas.
    - b. Experience requirements:
      - i. minimum one year.
    - c. Professional activity requirements:
      - i. encouraged to participate in an early childhood professional organization.
  - 4. Early Learning Center Staff IV
    - a. Training and education requirements:
      - i. 60 clock hours of instruction in approved core knowledge (CDA) subject areas.
    - b. Experience requirements:
      - i. minimum one year.
    - c. Professional activity requirements:
      - i. encouraged to participate in an early childhood professional organization
  - 5. Early Learning Center Assistant Teacher I
    - a. Training and education requirements:
      - i. 90 clock hours of instruction in approved core knowledge (CDA) subject areas.
    - b. Experience requirements:
      - i. minimum one year.
    - c. Professional activity requirements:
      - i. encouraged to participate in an early childhood professional organization.
  - 6. Early Learning Center Assistant Teacher II
    - a. Training and education requirements:
      - i. 120 clock hours of instruction in approved core knowledge (CDA) subject areas.
    - b. Experience requirements:
      - i. minimum one year.
    - c. Professional activity requirements:
      - i. encouraged to participate in an early childhood professional organization.
  - 7. Early Learning Center Teacher I
    - a. Training and education requirements:
      - i. CDA credential or approved early childhood diploma.

- b. Experience requirements:
  - i. minimum one year.
- c. Professional activity requirements:
  - i. encouraged to participate in an early childhood professional organization.
- 8. Early Learning Center Teacher II
  - a. Training and education requirements:
    - i. CDA credential or approved early childhood diploma; and
    - ii. nine CEU's or two early childhood college courses; or
    - iii. 30 hours toward associate degree with four college courses in early childhood or child development; or
    - iv. related associate degree.
  - b. Experience requirements:
    - i. minimum two years.
  - c. Professional activity requirements:
    - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.
- 9. Early Learning Center Teacher III
  - a. Training and education requirements:
    - i. associate degree in early childhood or child development; or
    - ii. related associate degree with 4 college courses in early childhood or child development; or
    - iii. bachelor's degree in early childhood or child development; or
    - iv. related bachelor's degree with three college courses in early childhood or child development.
  - b. Experience requirements:
    - i. minimum two years.
  - c. Professional activity requirements:
    - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.
- 10. Early Learning Center Teacher IV
  - a. Training and education requirements:
    - i. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or
    - ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers.
  - b. Experience requirements:
    - i. minimum two years.
  - c. Professional activity requirements:
    - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.
- 11. Early Learning Center Master Teacher
  - a. Training and education requirements:
    - i. graduate degree in early childhood or child development; or
    - ii. unrelated graduate degree with four early childhood or child development college courses.

- b. Experience requirements:
  - i. minimum two years.
- c. Professional activity requirements:
  - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.
- E. Requirements for the Classroom Track for LA Pathways beginning January 1, 2018
  - 1. Early Learning Center Assistant Teacher
    - a. Training and education requirements:
      - i. 80 clock hours of instruction in approved core knowledge (CDA) subject areas.
  - 2. Early Learning Center Teacher I
    - a. Training and education requirements:
      - i. CDA credential or approved early childhood diploma.
  - 3. Early Learning Center Teacher II
    - a. Training and education requirements:
      - i. CDA credential or approved early childhood diploma and nine continuing education units or two early childhood college courses; or
      - ii. 30 hours toward associate degree with four college courses in early childhood or child development; or
      - iii. related associate degree; or
      - iv. early childhood ancillary certificate.
  - 4. Early Learning Center Teacher III
    - a. Training and education requirements:
      - i. associate degree in early childhood or child development; or
      - ii. related associate degree with four college courses in early childhood or child development; or
      - iii. bachelor's degree in early childhood or child development; or
      - iv. related bachelor's degree with three college courses in early childhood or child development.
  - 5. Early Learning Center Teacher IV
    - a. Training and education requirements:
      - i. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or
      - ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers.
  - 6. Early Learning Center Master Teacher
    - a. Training and education requirements:
      - i. graduate degree in early childhood or child development; or
      - ii. unrelated graduate degree with four early childhood or child development college courses.
- F. Requirements for the Classroom Track for LA Pathways beginning January 1, 2019
  - 1. Early Learning Center Assistant Teacher
    - a. Training and education requirements:
      - i. 80 clock hours of instruction in approved core knowledge (CDA) subject areas.
  - 2. Early Learning Center Teacher I
    - a. Training and education requirements:
      - i. CDA credential or approved early childhood diploma; or
  - 3. Early Learning Center Teacher II

- a. Training and education requirements:
  - i. CDA credential or approved early childhood diploma and nine continuing education units or two early childhood college courses; or
  - ii. 30 hours toward associate degree with four college courses in early childhood or child development; or
  - iii. related associate degree; or
  - iv. Early Childhood Ancillary Certificate.
- 4. Early Learning Center Teacher III
  - a. Training and education requirements:
    - i. associate degree in early childhood or child development; or
    - ii. related associate degree with four college courses in early childhood or child development; or
    - iii. bachelor's degree in early childhood or child development; or
    - iv. related bachelor's degree with three college courses in early childhood or child development; or
    - v. Early Childhood Ancillary Certificate and demonstrated evidence of eligibility for the Staff School Readiness Tax Credit for at least one prior year beginning with 2018.
- 5. Early Learning Center Teacher IV
  - a. Training and education requirements:
    - i. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or
    - ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers.
- 6. Early Learning Center Master Teacher
  - a. Training and education requirements:
    - i. graduate degree in early childhood or child development; or
    - ii. unrelated graduate degree with four early childhood or child development college courses.
- G. Requirements for the Classroom Track for LA Pathways beginning January 1, 2020
  - 1. Early Learning Center Assistant Teacher
    - a. Training and education requirements:
      - i. 80 clock hours of instruction in approved core knowledge (CDA) subject areas.
  - 2. Early Learning Center Teacher I
    - a. Training and education requirements:
      - i. CDA credential or approved early childhood diploma; or
  - 3. Early Learning Center Teacher II
    - a. Training and education requirements:
      - i. CDA credential or approved early childhood diploma and nine continuing education units or two early childhood college courses; or
      - ii. 30 hours toward associate degree with four college courses in early childhood or child development; or
      - iii. related associate degree; or
      - iv. Early Childhood Ancillary Certificate.
  - 4. Early Learning Center Teacher III
    - a. Training and education requirements:
      - i. associate degree in early childhood or child development; or
      - ii. related associate degree with four college courses in early childhood or child development; or

- iii. bachelor's degree in early childhood or child development; or
    - iv. related bachelor's degree with three college courses in early childhood or child development; or
    - v. Early Childhood Ancillary Certificate and demonstrated evidence of eligibility for the Staff School Readiness Tax Credit for at least one prior year beginning with 2018.
  - 5. Early Learning Center Teacher IV
    - a. Training and education requirements:
      - i. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or
      - ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers.
      - iii. Early Childhood Ancillary Certificate and demonstrated evidence of eligibility for the Staff School Readiness Tax Credit for at least two prior years beginning with 2018.
  - 6. Early Learning Center Master Teacher
    - a. Training and education requirements:
      - i. graduate degree in early childhood or child development; or
      - ii. unrelated graduate degree with four early childhood or child development college courses.
  - H. Qualification for the School Readiness Tax Credit for Early Learning Center Directors and Staff
    - 1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.
    - 2. Early Learning Center Director Levels
      - a. Directors who are classified as director I by LA pathways are classified as meeting level I qualifications for purposes of this credit.
      - b. Directors who are classified as director II by LA pathways are classified as meeting level II qualifications for purposes of this credit.
      - c. Directors who are classified as director III by LA pathways are classified as meeting level III qualifications for purposes of this credit.
      - d. Directors who are classified as director IV by LA pathways are classified as meeting level IV qualifications for purposes of this credit.
    - 3. Early Learning Center Staff Levels
      - a. Staff members who are classified as early learning center teacher I by LA pathways are classified as meeting level I requirements for purposes of this credit.
      - b. Staff members who are classified as early learning center teacher II by LA pathways are classified as meeting level II requirements for purposes of this credit.
      - c. Staff members who are classified as early learning center teacher III by LA pathways are classified as meeting level III requirements for purposes of this credit.
      - d. Staff members who are classified as early learning center teacher IV or early learning center master teacher by LA pathways are classified as meeting level IV requirements for purposes of this credit.
- AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015), amended LR 42:46 (January 2016), LR 43:

## **Chapter 11. Unified Quality Rating System for Type III Early Learning Centers**

### **§1101. Authority**

A. The unified quality rating system for type III early learning centers is established and administered by the LDE under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2121 (October 2015), amended LR 43:

### **§1103. Definitions**

*Child or Children*—individuals who are five years of age or less.

*Child Care Provider*—a taxpayer who owns an eligible early learning center or centers.

*Early Childhood Care and Education Network*—the network established through R.S. 17:407.23 and Bulletin 140 as the comprehensive and integrated network through which BESE manages and oversees publicly-funded early childhood care and education programs, which include type III early learning centers in Louisiana in order to improve kindergarten readiness.

*Eligible Early Learning Center*—a type III early learning center that has current academic approval and a valid type III early learning center license issued by the LDE and is participating in the unified quality rating system.

*Quality Rating*—the number of “stars” awarded to an eligible type III early learning center by the unified quality rating system on July 1 of each year.

*Quality Rating System*—see *Unified Quality Rated System*.

*Service Period*—the months within the calendar quarter for which a child received care.

*Type III Early Learning Center*—an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

*Unified Quality Rating System*—system that sets forth the criteria for evaluating and rating the quality of an eligible type III early learning center in terms of “stars” with five “stars” being the highest.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2121 (October 2015), amended LR 43:

### **§1105. Unified Quality Rating System for Type III Early Learning Centers**

A. The unified quality rating system consist of five star ratings that may be awarded to type III early learning centers based on the level of quality of early child care and education provided by type III early learning centers serving children from birth through age five. The unified quality rating system is designed to recognize the quality of early care and education provided, communicate the level of quality, and support improvements of type III early learning centers.

1. To be eligible for participation in the unified quality rating system, a type III early learning center must:

a. have current academic approval issued by the department in compliance with §313 of Bulletin 140—*Louisiana Early Childhood Care and Education Network*; and

b. have a valid type III early learning center license issued by the LDE in compliance with Bulletin 137—*Louisiana Early Learning Center Licensing Regulations*.

2. A type III early learning center is participating in the unified quality rating system if it is eligible for participation and has notified the LDE of the desire to participate and willingness to sign the required documents verifying eligibility for tax credits.

B. A star rating shall be awarded to an eligible, participating type III early learning center based on the performance rating the center receives on its annual performance profile issued by the LDE as part of the Early Childhood Care and Education Accountability System (ECCE Accountability System). The ECCE Accountability System was created pursuant to R.S. 17:407.23(B)(3) and Bulletin 140, and is used to evaluate the performance of publicly-funded early childhood care and education sites, which include type III early learning centers, and community networks in preparing children for kindergarten and to assign a performance profile to each site, which include type III early learning centers and community network.

1. All publicly funded early childhood care and education sites, which include type III early learning centers, are required to participate in the ECCE Accountability System pursuant to §501 of Bulletin 140, and each publicly-funded site, which includes all type III early learning centers, must receive a performance profile based its performance each school year.

2. Performance profiles for publicly-funded sites, which include type III early learning centers, must include a performance rating as provided in §509 of Bulletin 140.

3. Performance rating calculations for publicly-funded sites, which include type III early learning centers, are made in accordance with §503 and §509 of Bulletin 140.

#### **C. Star Ratings for Type III Early Learning Centers**

1. An eligible, participating type III early learning center that earns a performance rating score of 3.00 through 3.74 on its performance profile issued by the LDE shall be awarded a one star quality rating;

2. An eligible, participating type III early learning center that earns a performance rating score of 3.75 through 4.49 on its performance profile issued by the LDE shall be awarded a two star quality rating;

3. An eligible, participating type III early learning center that earns a performance rating score of 4.50 through 5.24 on its performance profile issued by the LDE shall be awarded a three star quality rating;

4. An eligible, participating type III early learning center that earns a performance rating score of 5.25 through 5.99 on its performance profile issued by the LDE shall be awarded a four star quality rating;

5. An eligible, participating type III early learning center that earns a performance rating score of 6.00 through 7.00 on its performance profile issued by the LDE shall be awarded a five star quality rating;

D. The state superintendent of education (state superintendent), in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make

compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2122 (October 2015), amended LR 43:

#### **§1107. Participation**

A. Early learning centers that have achieved a star rating may have their rating reviewed and modified, if at any time it becomes known to the LDE or the LDE receives information from the early learning center that the type III early learning center no longer meets standards for the early learning center's current star rating award.

B. Early learning centers that have achieved a star rating will have their rating revoked if the early learning center license is revoked or not renewed.

C. Early learning centers that have achieved a star rating may have their rating revoked, or centers applying may be denied, if it is determined by the LDE that false or misleading statements or documents have been submitted or misrepresented or relevant facts have been concealed or withheld in order to qualify or maintain a star(s) in the unified quality rating system or to obtain the school readiness tax credit (SRTC).

D. The provider must reimburse the LDE for all ineligible benefits received.

E. There are no administrative appeal rights for providers whose participation is denied or terminated.

F. Early learning centers that have a star award revoked by quality start may be prohibited from participating in quality start for 12 months from the date of revocation of star award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2126 (October 2015), amended LR 43:

#### **§1109. Unified Quality Rating System Tiered Bonus Payments**

A. Bonus payments will be issued after the end of each calendar quarter to type III early learning centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the early learning center's star rating. The payment is equal to a percentage, as defined below, of all child care subsidy payments received by the early learning center from the LDE for services provided during the service period(s) in that quarter and the early learning center's star rating(s):

1. Bonus Payments for the period from January 1, 2018 through December 31, 2018 shall be based on the early learning center's 2016-2017 performance profile rating and the following percentages:

- a. one star—0 percent;
- b. two star—6 percent;
- c. three star—11 percent;
- d. four star—16.5 percent;
- e. five star—23 percent.

2. Bonus Payments for the period from January 1, 2019 through December 31, 2019 shall be based on the early learning center's 2017-2018 performance profile rating and the following percentages:

- a. one star—0 percent;
- b. two star—4 percent;
- c. three star—11 percent;
- d. four star—16.5 percent; and
- e. five star—23 percent.

3. Bonus Payments for the period from January 1, 2020 through December 31, 2020 shall be based on the early learning center's 2018-2019 performance profile rating and the following percentages:

- a. one star—0 percent;
- b. two star—2 percent;
- c. three star—11 percent;
- d. four star—16.5 percent; and
- e. five star—23 percent.

4. Bonus Payments for the period from January 1, 2021 through December 31, 2021, and subsequent years, shall be based on the early learning center's 2019-2020 performance profile rating, and the performance profiles for subsequent years, and the following percentages:

- a. one star—0 percent;
- b. two star—0 percent;
- c. three star—11 percent;
- d. four star—16.5 percent; and
- e. five star—23 percent.

B. The state superintendent of education may, in specific instances, grant a waiver allowing the LDE to continue to use an early learning center's star rating as of June 30 in calculating bonus payments for up to two quarters beginning on July 1 of the same calendar year, in a year in which the early learning center's star rating decreases, if the superintendent determines that the economic or adverse impact of the decreased star rating is sufficiently great to reduce access for families participating in the Child Care Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2126 (October 2015), amended LR 43:

#### **§1111. Termination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2126 (October 2015), repealed LR 43:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.



3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? Yes.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, May 10, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the

BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no cost to the Louisiana Department of Education (LDE) or the Louisiana Department of Revenue (LDR) to implement the proposed changes. However, there will be impacts to the state general fund to the extent the transition from the Quality Start Rating System (QSRS) to the Unified Quality Rating System (UQRS) for Type III early learning centers, and other proposed changes impact taxpayer eligibility for School Readiness Tax Credits authorized under LRS 47:6101. Tax credits awarded to providers, businesses, families, and staff have averaged \$17 M for the past three years. Proposed changes will impact the 2018 tax year and beyond (FY19 and beyond). Proposed changes will result in increased eligibility for some participants as well as a decrease in the credit amounts awarded for others. The net impact is indeterminable. While the LDE anticipates little change to the amount of credits awarded in the short term (FY18-FY20), there likely will be long term impacts to the extent the quality of child care and education at these centers improves, increasing both credit eligibility and credit amounts. Additional revisions include adjustments to the Tiered Bonus Payment Program for the federally funded Child Care Assistance Program (CCAP) beginning in 2018.

School Readiness Tax Credits (SRTC) were authorized in 2007 to promote kindergarten readiness in eligible early childhood learning centers and are based on the quality rating of the facility which the child attends. The credits, which are refundable or may be carried forward, are awarded to individual taxpayers, child care providers, businesses which support child care expenses and resource and referral agencies, and eligible directors and child care staff. The law establishes the amount of the credit based on the Quality Rating of child care facilities, denoted by a rating of one to five stars. Individual taxpayers (families) earn credits of 50% to 200% of the state child care tax credit based on their income levels. Provider credits are based on the average monthly census of children in the CCAP program and/or who are in foster care or in the custody of the Department of Children and Family Services; credit amounts range from \$750 to \$1,500 per CCAP child. Business credits range from 5% to 20% of eligible expenses with a one-to-one credit for donations to resource and referral agencies, not to exceed \$5,000. Finally, child care directors and teachers are eligible based on educational credentials and experience; credit amounts range from \$1,500 to \$3,000 (adjusted annually by the Consumer Price Index).

Currently, the LDE assigns a two star rating based on criteria identified in Bulletin 139 which includes administration practices, family and community involvement, and staff qualifications and further provides bonus points to increase the number of stars (up to five) for achievement above the base criteria. Additionally, Bulletin 139 defines the credential requirements for an Administrator (Director) or Early Learning Teacher. The proposed revisions will align the current star rating system with the performance rating system implemented as part of the Early Childhood Care and Education

Accountability System (ECCE), as defined in Bulletin 140, which uses the Classroom Assessment Scoring System (CLASS). CLASS is a classroom observation based system used to assess and rate classroom quality across multiple areas including emotional support, classroom organization, and instructional support, using a scale of one to seven. CLASS performance ratings are based on numerical scales including 1.0-2.99 (Unsatisfactory), 3.0-4.49 (Approaching Proficient), 4.5-5.99 (Proficient), and 6.0-7.0 (Excellent). The LDE proposes aligning the QSRS star rating with the CLASS performance rating for a new UQRS system whereby 3.0-3.74 equals One Star, 3.75-4.49 equals Two Star, 4.5-5.24 equals Three Star, 5.25-5.99 equals Four Star and 6.0-7.0 equals Five Star. Additionally, the proposed rule change revises required credentials for early learning center directors and teachers beginning in 2018.

The new requirement that all Type III child-care facilities participate in the UQRS will increase the number of providers who may be eligible for the credit. However, based on LDE's practice evaluation (using UQRS) of all existing centers, the more stringent grading system of CLASS will result in a shift of centers currently rated four and five star to a lower two and three star rating where most CCAP participants will be enrolled, resulting in a likely reduction in the amount of provider credits awarded. The LDE also anticipates implementing a cap on the enrollment of CCAP participants which would further serve to contain growth in Provider credits in the out years. Required participation may also make more families eligible, albeit at lower rates, and coupled with the reduction in four and five star centers could result in little or no net impact. Business credits could decrease due to the shift in centers to lower ratings, but the increase in eligible centers could also increase the number of eligible businesses participating. The LDE expects credit amounts to remain approximately the same for the next three years. Finally, the changes in staff qualifications may initially result in an increase in the number of individuals eligible for the credit, however, continuation of high turnover rates in child care center staff will likely result in little or no net increase in credits awarded for 2018 (FY 19). Changes in qualifications which are effective in 2019 and 2020 for some teachers may serve to stabilize turnover by making more teachers eligible for the credit. Ultimately, privacy laws prevent the DOR from sharing certain taxpayer information, so actual impacts cannot be quantified. Furthermore, factors other than the SRTC credit influence provider, business, and individuals' behavior, which can't be projected, but which will affect their eligibility, credit amounts, and application for the credit.

Revisions also include changes to the Tiered Bonus Program for the Child Care Assistance Program (CCAP). These bonus payments are funded with federal Child Care Development Funds (CCDF). CCAP bonus payments will be increased by 3% to support improvements. This proposed rate structure is not anticipated to increase expenditures as it replaces an existing bonus system. However, bonus payments for two-star providers are reduced to zero over time to encourage providers to meet quality thresholds which may result in a reduction in expenditures in 2021 and beyond.

## II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Historically, School Readiness Tax Credits have been used as both a Maintenance of Effort (MOE) and State Match for the purpose of drawing down federal Child Care Development Funds (CCDF) of approximately \$80 M annually. While significant reductions in the award amount of SRTC could negatively impact the state's ability to match these federal funds, an increase in the credits awarded would have no impact on federal funds.

## III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no mandatory costs as a result of the proposed revisions but may encourage child care programs to improve adult-child interactions and instruction in their classrooms to earn the economic benefits of tax credits. Economic benefits for programs, directors, businesses, and families will only be realized if programs increase classroom quality as recognized under the Unified Quality Rating System. Finally, research demonstrates that children who participate in high quality early childhood programs are more likely to graduate high school and have post-secondary success, thus increasing their overall lifetime earnings.

## IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LDE hopes that the proposed policy revisions will encourage all publicly-funded early learning centers that serve children from birth to age five to improve classroom interactions and instruction, thus ensuring nearly one hundred thousand children in Louisiana receive higher quality care and education that prepares them for kindergarten. There should not be any additional effect on competition as the unified rating system is already in effect. More significantly, these policy revisions are intended to have a positive impact on the child care workforce which is a low wage workforce. Specifically, they should help increase retention of highly-qualified child care teachers by encouraging their continued employment within the sector. This is anticipated to decrease the current annual turnover rates for lead-teachers within child care, which currently average around 40% a year. This will likely result in more stability and higher quality services for children while reducing the turnover costs for child care businesses. Costs of turnover include but are not limited to purchasing new criminal background checks, conducting interviews and references, and providing orientation and training.

Beth Scioneaux  
Deputy Superintendent  
1704#032

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; §2319, The Career Diploma; §2341, English; and §2361, Science. House Resolution 154 of the 2016 Regular Legislative Session requested that the Louisiana Department of Education (LDE), in consultation with the Board of Regents (BoR) and the Louisiana Student Financial Assistance Commission, study and make recommendations regarding the feasibility of allowing a course in human anatomy and physiology to serve as a science course for purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Louisiana Taylor Opportunity Program for Students (TOPS) award. In December 2016, human anatomy and physiology was approved for TOPS

scholarship eligibility. The proposed revisions update the science requirements to include human anatomy and physiology for students completing TOPS university diploma, and ensure full alignment of the TOPS University diploma and the TOPS scholarship. The proposed revisions also update technical writing requirements for the career diploma pathway.

## Title 28 EDUCATION

### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction

##### Subchapter A. Standards and Curricula

##### §2318. The TOPS University Diploma

A. - C.2.j. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

a. - b.iv.(n). ...

c. science—four units:

i. biology I;

ii. chemistry I;

iii. two units chosen from the following:

(a). Earth science;

(b). environmental science;

(c). physical science;

(d). agriscience II—the elective course

agriscience I is a pre-requisite;

(e). one of:

(i). chemistry II;

(ii). AP chemistry;

(iii). IB chemistry I;

(iv). IB chemistry II;

(f). one of:

(i). AP environmental science;

(ii). IB environmental systems;

(g). one of:

(i). physics I;

(ii). IB physics I;

(h). one of:

(i). AP physics C: electricity and

magnetism;

(ii). AP physics C: mechanics;

(iii). IB physics II;

(i). AP physics I and AP physics II;

(j). one of:

(i). biology II;

(ii). AP biology;

(iii). IB biology I;

(iv). IB biology II;

(v). human anatomy and physiology;

C.3.d. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193

(November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:

##### §2319. The Career Diploma

A. - B.7.a. ...

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma for incoming freshmen prior to 2014-2015 shall be the following:

a. English—4 units:

i. English I;

ii. English II;

iii. the remaining units shall come from the following:

(a). technical writing;

(b). business English;

(c). business communications;

(d). using research in careers (1/2 credit);

(e). American literature (1/2 credit);

(f). film in America (1/2 credit);

(g). English III;

(h). English IV;

(i). senior applications in English; or

(j). a course developed by the LEA and approved by BESE;

b. - h. ...

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. English—4 units:

i. English I;

ii. English II;

iii. the remaining units shall come from the following:

(a). technical writing;

(b). business English;

(c). English III;

(d). English IV;

(e). any AP or IB English course; or

(f). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

2.b. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:

## Subchapter B. Academic Programs of Study

### §2341. English

A. ...

\* \* \*

B. The English course offerings for the career diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Senior Applications in English	1
Technical Writing	1
Business English	1
Business Communications	1
Using Research in Careers	1/2 unit
American Literature	1/2 unit
Film in America	1/2 unit
AP English Language Arts and Composition	1
AP English Literature and Composition	1
IB Literature	1
IB Language and Literature	1
IB Literature and Performance	1
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
Course(s) developed by the LEA and approved by BESE	1

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 33:2605 (December 2007), LR 36:1492 (July 2010), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:

### §2361. Science

A. The science course offerings for the college diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics of Technology I, II	1 each
Approved IBC-related courses for those students who meet the requirement	1 each
AP Chemistry	1
IB Chemistry I	1
IB Chemistry II	1
AP Environmental Science	1
IB Environmental Systems	1
IB Physics I	1
AP Physics C: Electricity and Magnetism	1
AP Physics C: Mechanics	1
IB Physics II	1
AP Physics I and II	1/2 each
AP Biology	1
IB Biology I	1
IB Biology II	1
Human Anatomy and Physiology	1

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:2605 (December 2007), LR 36:1494 (July 2010), LR 40:1000 (May 2014), LR 40:2528 (December 2014), LR 43:

### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, May 10, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: *Bulletin 741—Louisiana Handbook for School Administrators*

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no cost to the Department of Education or Local School Districts to implement the proposed rule change.

House Resolution 154 of the 2016 Regular Legislative Session requested the Louisiana Department of Education (LDE), in consultation with the Board of Regents (BoR) and the Louisiana Student Financial Assistance Commission, to study and make recommendations regarding the feasibility of allowing a course in Human Anatomy and Physiology to serve as an equivalent science course for purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Louisiana Taylor Opportunity Program for Students (TOPS) award. In December 2016, the BoR approved this equivalency course for TOPS scholarship eligibility. The proposed revisions update the science requirements for students completing the TOPS university diploma to include Human Anatomy and Physiology, and ensure full alignment of the TOPS University diploma and the TOPS scholarship curriculum. The proposed revisions also update technical writing requirements for the Career Diploma pathway.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1704#043

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook  
for Nonpublic School Administrators  
(LAC 28:LXXIX.2109 and 2329)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §2109, High School Graduation Requirements; and §2329, Science. House Resolution 154 of the 2016 Regular Legislative Session requested that the Louisiana Department of Education (LDE), in consultation with the Board of Regents (BoR) and the Louisiana Student Financial Assistance Commission, study and make recommendations regarding the feasibility of allowing a course in human anatomy and physiology to serve as a science course for purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Louisiana Taylor Opportunity Program for Students (TOPS) award. In December 2016, human anatomy and physiology was approved for TOPS scholarship eligibility. The proposed revisions update the science requirements to include human anatomy and physiology for students completing TOPS university diploma, and ensure full alignment of the TOPS University diploma and the TOPS scholarship.

### Title 28

### EDUCATION

#### Part LXXIX. *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*

#### Chapter 21. Curriculum and Instruction

#### Subchapter C. Secondary Schools

#### §2109. High School Graduation Requirements

A. - C.7. ...

D. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

1. - 2.d.xiv. ...

3. science—four units:

- a. biology I;
- b. chemistry I;

c. two units from the following:

- i. earth science;
- ii. environmental science;
- iii. physical science;
- iv. agriscience II—the elective course agriscience

I is a pre-requisite;

v. one of:

- (a). chemistry II;

- (b). AP chemistry;
- (c). IB chemistry I;
- (d). IB chemistry II;
- vi. one of:
  - (a). AP environmental science;
  - (b). IB environmental systems;
- vii. one of:
  - (a). physics I;
  - (b). IB physics I;
- viii. one of:
  - (a). AP physics C: electricity and magnetism;
  - (b). AP physics C: mechanics;
  - (c). IB physics II;
- ix. AP physics I and AP physics II;
- x. one of:
  - (a). biology II;
  - (b). AP biology;
  - (c). IB biology I;
  - (d). IB biology II;
  - (e). human anatomy and physiology;

D.4. - F.3.b. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:

## Chapter 23. High School Program of Studies

### §2329. Science

A. The science course offerings shall be as follows.

Course Title	Unit(s)
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
AP Chemistry	1
IB Chemistry I	1
IB Chemistry II	1
AP Environmental Science	1
IB Environmental Systems	1
IB Physics I	1
AP Physics C: Electricity and Magnetism	1
AP Physics C: Mechanics	1
IB Physics II	1
AP Physics I and II	1/2 each
AP Biology	1
IB Biology I	1
IB Biology II	1
Human Anatomy and Physiology	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003), amended LR 31:3087 (December 2005), LR 34:2101 (October 2008), LR 39:1450 (June 2013), LR 40:1686 (September 2014), LR 40:2539 (December 2014), LR 43:

### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
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3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
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### Poverty Impact Statement

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2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

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2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, May 10, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

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House Resolution 154 of the 2016 Regular Legislative Session requested the Louisiana Department of Education (LDE), in consultation with the Board of Regents (BoR) and the Louisiana Student Financial Assistance Commission, to study and make recommendations regarding the feasibility of allowing a course in Human Anatomy and Physiology to serve as an equivalent science course for purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Louisiana Taylor Opportunity Program for Students (TOPS) award. In December 2016, the BoR approved this equivalency course for TOPS scholarship eligibility. The proposed revisions update the science requirements for students completing the TOPS university diploma to include Human Anatomy and Physiology, and ensure full alignment of the TOPS University diploma and the TOPS scholarship curriculum.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1704#045

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for  
State Certification of School Personnel  
(LAC 28:CXXXI.Chapters 1- 4, 6- 8, 10, 11, and 14)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §101. Purpose; §201. Overview; §203. Introduction; §204. Minimum Requirements for Approved Regular Education Programs for Birth-to-Kindergarten; §205. Minimum Requirements for Approved Regular Education Programs for Grades PK3: Adopted May 24, 2001; Effective July 1, 2002; §207. Minimum Requirements for Approved Regular Education Programs for Grades 1-5: Adopted May 24, 2001; Effective July 1, 2002; §209. Minimum Requirements for Approved Regular Education Programs for Grades 4-8: Adopted May 24, 2001; Effective July 1, 2002; §211. Minimum Requirements for Approved Regular Education Programs for Grades 6-12: Adopted May 24, 2001; Effective July 1, 2002; §213. College of Arts/Humanities/Sciences Degree Pathway to Secondary Education Certification (Grades 6-12): Adopted November 18, 2003; Effective January 1, 2004; §215. Minimum Requirements for Approved Regular Education All-Level Programs for Grades K-12: Adopted November 2003; Effective August 1, 2005; §217. Minimal Requirements for Approved Teacher Education Programs for Teachers of Mild/Moderate Impairments 1-12; Effective September 1, 1998; §219. Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 1-5<sup>2</sup>: Adopted October 2004; Effective July 1, 2010; §221. Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 4-8<sup>2</sup>: Adopted October 2004; Effective July 1, 2010; §223. Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 6-12<sup>2</sup>: Adopted October 2004; Effective July 1, 2010; §225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program: Adopted November 18, 2004; Effective July 1, 2007; §227. Minimal Guidelines for Approved Teacher Education Program for Speech, Language, and Hearing Specialists; §231. Introduction; §233. The Practitioner Teacher Program Alternative Path to

Certification (Minimum Requirements); §235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §237. Certification-Only Program Alternative Path to Certification; §239. The State as a Private Provider; §240. Educational Leader Practitioner (Residency) Program; §243. PRAXIS Exams and Scores; §205. Introduction; §207. General Competencies; §209. Introduction; §211. Learning Environments; §213. Curriculum; §215. Assessment; §217. Instructional Planning; §219. Introduction; §221. Content Knowledge Competencies; §223. English Language Arts Content Pedagogy Competencies; §225. Disciplinary Literacy Competencies; §227. Introduction; §229. Content Knowledge Competencies; §231. Content Pedagogy Competencies; §233. Introduction; §235. Early Childhood Pedagogy Competencies; §237. Introduction; §239. Other Special Education Areas; §241. Middle Grades 4-8 Education; §243. Secondary Grades 6-12 Education; §245. All Levels K-12 Education; §305. Professional Level Certificates; §307. Type C Certificates; §309. Out-of-State (OS) Certificate; §311. World Language Certificate (WLC) PK-12; §313. Practitioner Licenses; §315. Standard Certificates for Teachers in Nonpublic Schools; §321. Introduction; §325. Out-of-Field Authorization to Teach (OFAT); §326. Temporary Employment Permit (TEP); §328. Resident Teacher Certificate (R); §417. Educational Leader in Special Education Ancillary Certificate; §611. Requirements to add a Secondary (grades 6-12) Specialty Core Content Area as defined in the No Child Left Behind (NCLB) Act of 2001 (English, Math, Foreign Language, Science, and Social Studies); §613. Requirements to Add a Non-NCLB Secondary (grades 6-12) Specialty Content Area (Agriculture, Business, Computer Science, Family and Consumer Sciences, Journalism, Marketing, Speech, Technology Education); §705. Educational Leader Certificate Level 1 (EDL 1); §801. Overview; §803. Appeal Process; §1001. Terms; §1003. Acronyms; §1101. General Provisions; §1101. General Provisions; §1103. Highly Qualified Policy for Teachers; §1105. Highly Qualified Policy for Paraprofessionals; §1107. Continuing Learning Units (CLUs); §1109. Federal Legislation Related to Qualifications of Teachers and Paraprofessionals; and §1401. Definitions. These proposed changes provide relative to teacher preparation and certification requirements.

## **Title 28**

### **EDUCATION**

#### **Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel**

##### **Chapter 1. Introduction**

##### **§101. Purpose**

A. Certification is a licensing process whereby qualified professionals become legally authorized to teach or to perform designated duties in K-12 schools under the jurisdiction of the Louisiana Board of Elementary and Secondary Education (BESE). The certification process provides a systematic and nondiscriminatory procedure for the credentialing of teachers and other school personnel.

B. Certification policies and statutes are designed to identify and support high quality teachers in all Louisiana classrooms; promote higher standards in the teaching profession; and provide for growth and development of the teaching profession. The Louisiana Department of Education

(LDE) implements and maintains teacher certification procedures as mandated by legislation and BESE policy.

C. Certification policies are adopted and implemented in a manner, and with a timeline, that allows for smooth transition from old to new requirements. Any certification change made by the BESE shall include implementation dates to be specified at the time of recommendation to the BESE for action. In particular, changes in Praxis exam scores will allow for a 12-month period from the date of adoption by the BESE to the effective date.

D. When revised certification policy requirements necessitate a program change at the college level, a notice shall be given to those institutions of higher education that have teacher preparation programs so that catalogs can be revised and incoming freshman can be notified of the changes.

E. This bulletin will serve as a reference for current state policy relative to initial certification and to certification endorsement options for those who wish to become teachers, those who are practicing teachers, personnel from both school districts and institutions of higher education, and anyone else who may seek certification assistance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1782 (October 2006), amended LR 43:

#### **Chapter 2. Initial Teacher Certification**

##### **Subchapter A. Teacher Certification Areas and Required Competencies**

##### **§201. Overview**

A. Louisiana Revised Statutes 17:7 provides for the duties, functions, and responsibilities of the Board of Elementary and Secondary Education (BESE). Specifically, 17:7(6)(a)(i) states that BESE shall prescribe qualifications and provide for certification of teachers in accordance with applicable law, and that such qualifications and requirements shall ensure that certification shall be a reliable indicator of minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned.

B. The Louisiana competencies for initial teacher certification define what a teacher candidate must know and be able to do in order to be eligible for certification upon completion of a BESE-approved teacher preparation program. They represent the knowledge and skills needed for teacher candidates to successfully transition to teaching, as determined by content experts, elementary and secondary educators, and postsecondary education leaders. The competencies set forth what teacher candidates should be taught; preparation providers and their school system partners should determine how the competencies should be developed through quality practice experiences that include, at minimum, a year-long residency as defined in *Bulletin 996*.

C. When a candidate has successfully completed a state-approved program that develops and assesses mastery of these competencies and met state testing and grade point average certification requirements, the program provider recommends the candidate for certification.

**NOTE:** The LDE will accept no final grade below a "C" in coursework within the approved undergraduate program, with



the exception of the general education requirements. All coursework used for certification purposes must be for regular credit and not of a remedial or developmental nature.

#### D. Certification Areas and Required Competencies

Certification Areas	Required Competencies
Birth to Kindergarten	Subchapter C. General Teacher Competencies Subchapter E. English Language Arts Competencies Subchapter F. Mathematics Teacher Competencies Subchapter G. Early Childhood Teacher Competencies
Early Childhood PK-3	Subchapter C. General Teacher Competencies Subchapter E. English Language Arts Competencies Subchapter F. Mathematics Teacher Competencies Subchapter G. Early Childhood Teacher Competencies
Grades 1-5	Subchapter C. General Competencies Subchapter E. English Language Arts Teacher Competencies Subchapter F. Mathematics Teacher Competencies
Grades 4-8 Certification Areas	Required Competencies
English/Language Arts	Subchapter C. General Teacher Competencies Subchapter E. English Language Arts Competencies
Mathematics	Subchapter C. General Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter F. Mathematics Teacher Competencies
Science	Subchapter C. General Teacher Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter H, Section 241. Science Education
Social Studies	Subchapter C. General Teacher Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter H, Section 241. Social Studies Education
Grades 6-12 Certification Areas	Required Competencies
Agriculture	Subchapter C. General Teacher Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter H, Section 241 Agriculture Education
Biology	Subchapter C. General Teacher Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter H, Section 241 Science Education
Business	Subchapter C. General Teacher Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter H, Section 241 Business Education

Chemistry	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Science Education
Chinese	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Foreign Languages Education
English/Language Arts	Subchapter C. General Teacher Competencies Subchapter E. English Language Arts Teacher Competencies
Family and Consumer Sciences	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Family and Consumer Sciences Education
French	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Foreign Languages Education
General Science	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243
German	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Foreign Languages Education
Mathematics	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter F. Mathematics Teacher Competencies
Physics	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243
Social Studies	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241
Spanish	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Foreign Languages Education
Speech	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies
Technology Education	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Technology Education

Computer Science	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Computer Science Education
Earth Science	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Science Education
Environmental Science	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Education
Journalism	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Journalism Education
Latin	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Foreign Languages Education
Marketing	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 241 Business and Marketing Education
<b>All-Level K-12 Certification Areas</b>	
Grades K-12 Art	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Art Education
Grades K-12 Dance	Subchapter C. General Teacher Competencies Subchapter E, Section 225. Disciplinary Literacy Competencies Subchapter H, Section 243 Dance Education
Grades K-12 Foreign Languages	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Foreign Languages Education
Grades K-12 Music	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Music Education
Grades K-12 Health and Physical Education	Subchapter C. General Teacher Competencies Subchapter E, Section 225 Disciplinary Literacy Competencies Subchapter H, Section 243 Health and Physical Education
<b>Special Education Certification Areas</b>	
Early Interventionist Birth to Five Years	Subchapter H, Section 239.A
Hearing Impaired K-12	Subchapter D. Special Education Teacher Competencies Subchapter H, Section 239.B

Mild to Moderate Disabilities 1-5, 4-8, 6-12	Subchapter D. Special Education Teacher Competencies
Significant Disabilities 1-12	Subchapter D. Special Education Teacher Competencies Subchapter H, Section 239.E
Visual Impairments/Blind K-12	Subchapter D. Special Education Teacher Competencies Subchapter H, Section 239.C

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1783 (October 2006), amended LR 43:

### **Subchapter B. Testing Required for Certification Areas §203. PRAXIS Exams and Scores**

A. A teacher applicant for certification must successfully complete the appropriate written or computer delivered tests identified in this section prior to Louisiana teacher certification.

1. Core Academic Skills for Educators<sup>2</sup>. Teacher applicants in all content areas must pass all three Praxis core academic skills for educators tests.

<b>Pre-Professional Skills Test "Paper or Computer Administrations"</b>	<b>Test #</b>	<b>Score</b>	<b>Effective Date</b>
PPST:R—Pre-Professional Skills Test: Reading	0710/5710	176	Effective 7/1/10 to 12/31/13
PPST:W—Pre-Professional Skills Test: Writing	0720/5720	175	
PST:M—Pre-Professional Skills Test: Mathematics	0730/5730	175	

<b>Core Academic Skills for Educators</b>	<b>Test #</b>	<b>Score</b>	<b>Effective Date</b>
Reading	5712	156	Effective 1/1/14
Writing	5722	162	
Mathematics	5732	150	

<sup>1</sup> To differentiate the computer delivered tests, Educational Testing Service has placed the number "5" or "6" preceding the current test code. The Department will accept computer delivered passing test scores for licensure.

<sup>2</sup> NOTE: An ACT composite score of 22 or a SAT combined verbal and math score of 1030 may be used in lieu of Praxis 1 PPST Exams or Core Academic Skills for Educators in reading, writing and math by prospective teachers in Louisiana

### **2. Principles of Learning and Teaching (PLT) Exams**

Principles of Learning and Teaching : Early Childhood	0621 or 5621	157	Effective 1/1/12
Principles of Learning and Teaching: K-6	0622 or 5622	160	
Principles of Learning and Teaching: 5-9	0623 or 5623	160	
Principles of Learning and Teaching: 7-12	0624 or 5624	157	

## B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Birth to Kindergarten	Early Childhood Content Knowledge (5022/5025 after September 2015)	160 (for 5022)	PLT: Early Childhood 0621 or 5621 (Score 157)		
	Early Childhood Education (5025)	156 (for 5025)			
	OR				
	Education of Young Children (5024)	160			
	OR				
	PreK Education (5531)	155			
Early Childhood PK-3	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	PLT: Early Childhood 0621 or 5621 (Score 157)		
Early Childhood PK-3	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163	PLT: Early Childhood 0621 or 5621 (Score 157)		
	OR				
	Elementary Education: Multiple Subjects (5001)				
	<ul style="list-style-type: none"> <li>Reading/Language Arts(5002)</li> <li>Mathematics (5003)</li> <li>Social Studies (5004)</li> <li>Science (5005)</li> </ul>	157 157 155 159			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)				
	<ul style="list-style-type: none"> <li>Reading/Language Arts(5002)</li> <li>Mathematics (5003)</li> <li>Social Studies (5004)</li> <li>Science (5005)</li> </ul>	157 157 155 159			
Grades 1-5	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	160	---	---
Grades 1-5	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163	160		
	OR				
	Elementary Education: Multiple Subjects (5001)				
	<ul style="list-style-type: none"> <li>Reading/Language Arts(5002)</li> <li>Mathematics (5003)</li> <li>Social Studies (5004)</li> <li>Science (5005)</li> </ul>	157 157 155 159			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)				
	<ul style="list-style-type: none"> <li>Reading/Language Arts(5002)</li> <li>Mathematics (5003)</li> <li>Social Studies (5004)</li> <li>Science (5005)</li> </ul>	157 157 155 159			
Grades 4-8 Mathematics	Middle School Mathematics (0069) Prior to 1/1/14	148	---	160	---
	Middle School Mathematics (5169) Effective 1/1/14	165			
Grades 4-8 Science	Middle School Science (0439) Prior to 6/8/14	150	---	160	---
	Middle School Science (5440) Effective 6/8/14	150			
Grades 4-8 Social Studies	Middle School Social Studies (0089 or 5089)	149	---	160	---
Grades 4-8 English/ Language Arts	Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14	160	---	160	---
	Middle School English (5047) Effective 1/1/14	164			

C. Certification Areas  
1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
		Score			PLT 7-12
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			
Biology	Biology: Content Knowledge (0235 or 5235)	150	---	---	157
Business	Business Education: Content Knowledge (0101 or 5101)	154	---	---	157
Chemistry	Chemistry: Content Knowledge (0245 or 5245)	151			157
Chinese	Chinese (Mandarin): World Language (5665)	164	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
English	English Language, Literature, and Composition: Content Knowledge (0041 or 5041) Pedagogy (0043) Prior to 1/1/14	160 130	---	---	157
	English Language Arts: Content and Analysis (5039) Effective 1/1/14	168			
Family and Consumer Sciences	Family and Consumer Sciences (0121 or 5121) Prior to 6/8/14	141	---	---	157
	Family and Consumer Sciences (5122) Effective 6/8/14	153			
French	French: World Language (5174)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
General Science	General Science: Content Knowledge (0435 or 5435)	156	---	---	157
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Mathematics	Mathematics: Content Knowledge (0061 or 5061) Effective 6/1/10-12/31/13	135	---	---	157
	Mathematics: Content Knowledge (5161) Effective 1/1/14	160			
Physics	Physics: Content Knowledge (0265 or 5265)	141			157
Social Studies	Social Studies: Content and Interpretation (0086 or 5086)	160	---	---	157
Spanish	Spanish: World Language (5195)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World languages Pedagogy 0841 (Score 158)		
Speech	Speech Communications (0221 or 5221)	146	---	---	157
Technology Education	Technology Education (0051 or 5051)	159	---	---	157
Computer Science Earth Science Environmental Science Journalism Latin Marketing	At this time, a content area exam is not required for certification in Louisiana.	---	---	---	157

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
		Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available**	---	160		160	or	157
Grades K-12 Foreign Languages	Chinese (Mandarin):World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160) or PL7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: World Language (5174)	157					
	German: World Language (5183)	157					
	Spanish: World Language (5195)	157					
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160	or	160	or	157
Grades K-12 Health and Physical Education	Phys. Education: Content Knowledge (0091 or 5091) Prior to 6/8/14	146	160		160	or	157
	Health and Physical Education (5857) Effective 6/8/14	160					

\*\*At this time, a content area exam is not required for certification in Louisiana.

## D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Applications (0354 or 5354) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/12	145
	Effective 9/1/15 to 8/31/17	163		157
	Elementary Education: Content Knowledge (5018)			
	OR			
	Elementary Education: Multiple Subjects (5001)		Special Education: Early Childhood (0691) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/14	159
	<ul style="list-style-type: none"> <li>• Reading/Language Arts(5002)</li> <li>• Mathematics (5003)</li> <li>• Social Studies (5004)</li> <li>• Science (5005)</li> </ul>	157 157 155 159		157
Hearing Impaired	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	<ul style="list-style-type: none"> <li>• Reading/Language Arts(5002)</li> <li>• Mathematics (5003)</li> <li>• Social Studies (5004)</li> <li>• Science (5005)</li> </ul>	157 157 155 159		
	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Applications (0354 or 5354) and Education of Deaf and Hard of Hearing Students (0271) Effective 11/1/11	145
	Effective 9/1/15 to 8/31/17	163		160
	Elementary Education: Content Knowledge (5018)			
	OR			
Mild to Moderate Disabilities	Elementary Education: Multiple Subjects (5001)		Special Education: Core Knowledge and Applications (0354 or 5354) and Special Education: Education of Deaf and Hard of Hearing Students (0272 or 5272) Effective 1/1/14	145
	<ul style="list-style-type: none"> <li>• Reading/Language Arts(5002)</li> <li>• Mathematics (5003)</li> <li>• Social Studies (5004)</li> <li>• Science (5005)</li> </ul>	157 157 155 159		160
	•			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	<ul style="list-style-type: none"> <li>• Reading/Language Arts(5002)</li> <li>• Mathematics (5003)</li> <li>• Social Studies (5004)</li> <li>• Science (5005)</li> </ul>	157 157 155 159		
	ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., Elementary, or core subject-specific exams for middle or secondary grades)		Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543) and PLT specific to grade level (K-6, or 5-9 or 7-12).	153
Significant Disabilities	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Severe to Profound Applications (0545 or 5545)	153
	Effective 9/1/15 to 8/31/17			
	Elementary Education: Content Knowledge (5018)	163		
	OR			
	Elementary Education: Multiple Subjects (5001)			
	<ul style="list-style-type: none"> <li>• Reading/Language Arts(5002)</li> <li>• Mathematics (5003)</li> <li>• Social Studies (5004)</li> <li>• Science (5005)</li> </ul>	157 157 155 159		
	•			
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	<ul style="list-style-type: none"> <li>• Reading/Language Arts(5002)</li> <li>• Mathematics (5003)</li> <li>• Social Studies (5004)</li> <li>• Science (5005)</li> </ul>	157 157 155 159		

Area	Content Exam	Score	Pedagogy Requirement	Score
Visual Impairments/ Blind	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Content Knowledge and Applications (0354 or 5354) Effective 11/1/11	145
	Effective 9/1/15 to 8/31/17			
	Elementary Education: Content Knowledge (5018)	163	Special Education: Core Content Knowledge and Applications (0354 or 5354) and Special Education: Teaching Students with Visual Impairments (0282) Effective 1/1/14	145
	OR			163
	Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	• Reading/Language Arts(5002)	157		
	• Mathematics (5003)	157		
	• Social Studies (5004)	155		
	• Science (5005)	159		

#### E. Administrative and Instructional Support Areas

Certification Area	Name of Praxis Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166
Educational Leader—Level 3	School Superintendent Assessment (6021)	160
Guidance Counselor K-12	Professional School Counselor (0421 or 5421)	156
School Librarian	Library Media Specialist (0311 or 5311)	136

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:

#### Subchapter C. General Teacher Competencies

##### §205. Introduction

A. The following teacher preparation competencies apply to all content areas and grade levels for which a teacher candidate may be certified to teach.

B. The competencies identify essential knowledge and skills that align with current expectations for practicing teachers, including but not limited to what a teacher candidate must know and be able to do in order to:

1. communicate and collaborate with students, colleagues, families, and community members to support students' learning and development; and

2. design and deliver effective instruction to all students, including students with exceptionalities and students in need of academic and non-academic intervention in a regular education setting.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

##### §207. General Competencies

A. The teacher candidate demonstrates, at an effective level, the Louisiana Components of Effective Teaching as defined in *Bulletin 130* and the Compass Teacher Rubric.

B. The teacher candidate demonstrates mastery of the content knowledge and skills and content pedagogy needed to teach the current academic standards as defined in BESE policy.

C. The teacher candidate uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on students and adapts practice to meet the needs of each student.

1. The teacher candidate observes and reflects on students' responses to instruction to identify areas of need and make adjustments to practice.

2. The teacher candidate gathers, synthesizes, and analyzes a variety of data from a variety of sources to adapt instructional practices and other professional behaviors to better meet students' needs.

3. The teacher candidate uses structured input and feedback from a variety of sources (e.g., colleagues, mentor teachers, school leaders, preparation faculty) to make changes to instructional practice and professional behaviors to better meet students' needs.

D. The teacher candidate elicits and uses information about students and their experiences from families and communities to support student development and learning and adjust instruction and the learning environment.

E. The teacher candidate applies knowledge of state and federal laws related to students' rights and teacher responsibilities for appropriate education for students with and without exceptionalities, parents, teachers, and other professionals in making instructional decisions and communicating with colleagues and families (e.g., laws and policies governing student privacy, special education, and limited English proficient education, including but not limited to *Bulletin 1508*, *Bulletin 1530*, *Bulletin 1706*, and *Bulletin 1903*).

F. The teacher candidate differentiates instruction, behavior management techniques, and the learning environment in response to individual student differences in cognitive, socio-emotional, language, and physical development.

G. The teacher candidate develops and applies instructional supports and plans for an Individualized Education Plan (IEP) or Individualized Accommodation Plan (IAP) to allow a student with exceptionalities developmentally appropriate access to age- or grade-level instruction, individually and in collaboration with colleagues.

H. The teacher candidate applies knowledge of various types of assessments and their purposes, strengths, and limitations to select, adapt, and modify assessments to accommodate the abilities and needs of students with exceptionalities.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Subchapter D. Special Education Teacher Competencies**

### **§209. Introduction**

A. The competencies identify the fundamental knowledge and skills that should be developed and assessed in teacher candidates who are pursuing certification that includes eligibility to teach special education in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§211. Learning Environments**

A. The teacher candidate uses positive motivational and instructional interventions to teach students with exceptionalities how to adapt to different environments.

B. The teacher candidate sets expectations for personal and social behavior of students with exceptionalities in various settings (e.g., classroom, library, cafeteria, gymnasium, job site) and incorporates these expectations into effective instructional routines, lesson plans, IEP goals and objectives.

1. The teacher candidate provides positive visual, physical, and/or motivational support to individual students for integration into various settings (e.g., classroom, library, cafeteria, gymnasium, job site).

C. The teacher candidate designs and adapts learning environments for diverse student populations that facilitate active participation in individual and group activities.

D. The teacher candidate modifies the learning environment (e.g., physical arrangement, student grouping, instructional intensity, pacing, embedded assistive technology supports) to proactively manage student behaviors and unique learning needs.

1. The teacher candidate uses a variety of non-aversive techniques to control targeted behavior and maintain attention of students with exceptionalities.

2. The teacher candidate uses assessment data to select appropriate environmental accommodations and modifications to address deficits in student behaviors and learning needs.

E. The teacher candidate intervenes safely and appropriately when students with exceptionalities are in crisis.

F. The teacher candidate designs and implements positive interventions to develop and strengthen on task/desirable behaviors.

G. The teacher candidate plans and implements individualized reinforcement systems and environmental modifications at levels equal to the intensity of student behavior and function.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§213. Curriculum**

A. The teacher candidate makes the general curricula accessible to students with exceptionalities by implementing instruction that is inclusive of appropriate accommodations and modifications to the general curricula as outlined in an IEP.

B. The teacher candidate develops and implements comprehensive, longitudinal individualized programs (i.e., IEPs) in collaboration with team members, the individual, and family.

1. The teacher candidate addresses the needs of students with exceptionalities that extend beyond the general education curriculum within IEPs and through instruction across various educational settings and contexts.

C. The teacher candidate uses augmentative and alternative communication systems and a variety of assistive technologies to support instructional assessment, planning, and delivery for students with exceptionalities.

1. The teacher candidate selects, designs, and uses high- and low-technology materials and resources required to educate individuals whose exceptionalities interfere with communication.

D. The teacher candidate integrates affective, social, and life skills with academic curricula, creating the opportunity for students to practice these skills in the context of authentic daily routines.

1. The teacher candidate designs, implements, and evaluates instructional programs that enhance social participation across environments.

E. The teacher candidate applies knowledge of career, vocational, and transition programs for students with exceptionalities to design and implement instructional programs that address independent living and career education for individuals.

1. The teacher candidate uses a variety of community- and school-based resources and strategies to successfully transition students with exceptionalities into and out of school and post-school environments.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§215. Assessment**

A. The teacher candidate monitors progress of students with exceptionalities towards attainment of IEP goals and objectives.

1. The teacher candidate uses knowledge of measurement principles and practices to interpret assessment results and guide educational decisions for students with exceptionalities.

2. The teacher candidate uses multiple types of assessment information in making instructional, eligibility, program, and placement decisions for students with exceptionalities, including those from culturally and linguistically diverse backgrounds.

3. The teacher candidate uses appropriate technology to conduct assessments in keeping with assessment protocols and in alignment with student needs.

B. The teacher candidate identifies and uses assessment data to identify the need for interventions and services for

individuals who are in need of additional academic and/or non-academic support, including early identification of young individuals who may be at risk for exceptionalities.

1. The teacher candidate uses data derived from functional assessments to develop intervention plans aligned to the specific needs of individual students.

C. The teacher candidate selects, adapts, and modifies assessments or assessment strategies to accommodate abilities and needs of students with exceptionalities.

1. The teacher candidate implements procedures for assessing and reporting both appropriate and problematic social behaviors of students with exceptionalities.

2. The teacher candidate identifies reliable methods of response from students who lack typical communication and performance abilities, using supports as needed to accommodate individual student needs.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§217. Instructional Planning**

A. The teacher candidate plans and implements age- and ability-appropriate instruction for students with exceptionalities that supports progress in the general curricula.

1. The teacher candidate incorporates goals and strategies from multiple IEPs in lesson plans.

2. The teacher candidate uses and adapts instructional strategies according to characteristics and needs of students with exceptionalities.

3. The teacher candidate selects and adapts instructional materials according to characteristics and needs of students with exceptionalities.

B. The teacher candidate selects and uses a variety of assistive technologies within instructional routines to promote access to the general curriculum for students with exceptionalities.

C. The teacher candidate modifies the pace of instruction and provides organizational cues to meet the instructional needs of students with exceptionalities.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Subchapter E. English Language Arts and Literacy Teacher Competencies**

### **§219. Introduction**

A. The English Language Arts and literacy teacher preparation competencies identify essential knowledge and skills for teacher candidates seeking certification in birth to kindergarten, pre-kindergarten-third grade, elementary grades 1-5, elementary grades 1-5 integrated to merged, English Language Arts grades 4-8, English Language Arts grades 4-8 integrated to merged, English Language Arts 6-12, and English Language Arts grades 6-12 integrated to merged.

B. Content knowledge competencies identify foundational knowledge of the English language and language development, reading, composition, and oral language skills.

C. Content pedagogy competencies identify teaching knowledge and skills that are specific to English Language arts instruction that develop students' ability to:

1. understand and use vocabulary and language, including early literacy (e.g., print awareness, phonological

skill, word recognition, incidental reading foundational skills) to make sense of what texts say;

2. understand topics, themes, and ideas to determine text meaning;

3. build understanding about texts using evidence through discussion; and

4. demonstrate understanding of the language, craft, topics, themes, and ideas of complex grade-level texts through writing using evidence and appropriate grade-level conventions, spelling, and structure.

D. Disciplinary Literacy Competencies identify what a teacher candidate must know and be able to do to teach reading and literacy effectively in the context of certification areas other than English Language Arts (e.g., middle grades and secondary science or social studies).

1. These competencies are applicable to teacher candidates who are pursuing certification for grades 4-8 or 6-12 in any content area other than English Language Arts.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§221. Content Knowledge Competencies**

A. The teacher candidate is able to read and understand the language, craft, topics, themes, and ideas of complex texts and explain how they are able to read and understand those texts.

1. The teacher candidate reads a wide variety of complex texts appropriate for instruction of age or grade-level reading, writing, speaking and listening, and language standards. The variety of texts includes print and non-print or digital texts; media texts, including but not limited to, songs, videos, podcasts, film; and classic texts and contemporary texts, including children's literature, that represent a range of world literatures, historical traditions, genres, forms, and the experiences of different genders, ethnicities, and social classes.

2. The teacher candidate determines the meaning, purpose, and main ideas of complex texts and explains their development orally and in writing based on the interaction of an author's craft (e.g., word choice, syntax, use of details and illustrations, figurative language), elements and structure (e.g., setting, characterization, development and organization, plot, pacing, evidence), literary effects (e.g., symbolism and irony), and rhetorical devices.

3. The teacher candidate explains how vocabulary, diction, syntax, and sentence patterns contribute to the meaning, complexity, clarity, coherency, fluency, and quality of a text.

4. The teacher candidate selects words in complex texts which most contribute to the meaning, are common among complex texts, are part of word families, or have multiple meanings.

5. The teacher candidate makes connections among texts, including determining and explaining how each text challenges, validates, or refines the language, topics, themes, and/or ideas of other texts and how modern texts or texts in different mediums adapt, enhance, or misrepresent a source text.

6. The teacher candidate assesses the credibility and usability of texts by analyzing texts with differing viewpoints to determine areas of conflict or possible bias, evaluating whether the reasoning is sound and the evidence is relevant and sufficient, and determining the advantages



and disadvantages of different texts and mediums for presenting a particular topic or idea.

7. The teacher candidate recognizes the influence of English language and literary history on English Language Arts content.

B. The teacher candidate demonstrates proficiency with written and spoken language when writing about the topics, themes, and/or ideas of complex texts.

1. The teacher candidate creates a range of formal and informal, process and on-demand oral, written, and visual compositions (e.g., analytic, argumentative, explanatory, narrative) about the language, craft, topics, themes, and/or ideas of complex texts, taking into consideration the interrelationships among form, audience, context, and purpose.

2. The teacher candidate uses complex texts to locate models of writing (e.g., word choice, syntax, sentence variety and fluency, text structure, style) and use the models to imitate the language, structure, and style in their own writing.

3. The teacher candidate knows and appropriately uses the conventions of English language (i.e., grammar, usage, and mechanics) as they relate to various rhetorical situations and to various style guides for composition.

4. The teacher candidate recognizes and explains the historical context of modern English language, including recognizing root words, determining word etymologies, and analyzing changes in syntax.

5. The teacher candidate explains the concept of dialect, recognize its effect and impact on the meaning and development of written and spoken language, and know and apply its use in context when it is appropriate.

6. The teacher candidate explains the importance of language structure (e.g., syntactic awareness, discourse awareness) in developing reading and writing fluency.

C. The teacher candidate demonstrates understanding of the stages of language, reading, and writing development.

1. The teacher candidate explains the progression, connection, and relationships among the major components of early literacy development, including the typical and atypical development of skills in the areas of language (i.e., phonological skill, morphology, orthography, semantics, syntax, and discourse); reading (i.e., print awareness, decoding, fluency, and comprehension); spelling and writing development (i.e., pre-literate, early emergent, emergent, transitional, and conventional).

2. The teacher candidate defines, explains, produces, and classifies the basic phonetic structure and orthographic rules and patterns of the English language, including but not limited to phonemes, graphemes, diagraphs, blends, r-control vowels, hard and soft consonants, and explains how these relate to the progression of reading and writing development.

3. The teacher candidate explains the principles of teaching word identification and spelling and gives examples illustrating each principle.

4. The teacher candidate explains the role of fluency in typical reading development (e.g., word recognition, oral reading, silent reading, and comprehension) and as a characteristic of some reading disorders.

5. The teacher candidate identifies, defines, and explains the relationship between environmental, cultural, and social factors that contribute to literacy development and the difference between delays and characteristics of some reading disorders, as determined by academic standards.

6. The teacher candidate explains and demonstrates through oral reading the print concepts young students must develop (e.g., text orientation, directionality, connection of print to meaning, return sweep, page sequencing, punctuation).

7. The teacher candidate explains the stages of the development of phonological awareness skills and gives examples illustrating each stage (e.g., rhyme, syllable, onset-rime, phoneme segmentation, blending, and substitution).

8. The teacher candidate demonstrates appropriate enunciation in oral demonstrations, especially speech sounds when conducting phonemic awareness lessons.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§223. English Language Arts Content Pedagogy Competencies**

A. The teacher candidate applies knowledge of the relationships among speaking and listening, language, reading, and writing to use writing and speaking and listening experiences in conjunction with language and reading instruction to enhance students' reading and writing development.

1. The teacher candidate (applicable only for B-K, PK-3, 1-5) uses knowledge of the progression of phonological awareness skills to select or design and implement sequenced lessons and units that scaffold students' development of phonological awareness and enhance reading and writing development through the use of a variety of intentional, explicit, and systematic instructional practices embedded in a range of continuous texts.

2. The teacher candidate (applicable only for grades 1-5, 4-8, 6-12) uses knowledge of the progression of language, reading, and writing skills to select or design and implement lesson sequences that scaffold and enhance early adolescent and adolescent students' reading and writing development through the use of a variety of intentional, explicit, and systematic instructional practices embedded in a range of continuous texts for small-group instruction or intervention in addition to whole-class instruction with grade-level standards.

3. The teacher candidate uses knowledge of the relationship between phonemes and graphemes to plan writing experiences in conjunction with phonological instruction to enhance students' reading and writing development.

4. The teacher candidate selects and uses various strategies to develop students' reading fluency, including guiding student awareness of syntax and discourse.

5. The teacher candidate selects or designs and implements lessons and unit sequences which provide opportunities for all students to read a wide range and volume of texts for various purposes (e.g., understanding, pleasure, and research) and make connections among texts based on their language, craft, topics, themes, and/or ideas.

6. When appropriate based on age- or grade-level standards, the teacher candidate supports students in selecting texts and assessing the credibility and usability of texts for different purposes.

7. The teacher candidate schedules and coordinates instructional time to make content connections with science, social studies, and the arts to ensure students build a wide vocabulary and knowledge of the world.

B. The teacher candidate selects or designs and implements instruction that provides opportunities for students at various stages of language, reading, and writing development to accurately and fluently read, understand, and express understanding of a range of complex grade-level texts, as determined by age- or grade-level standards.

1. The teacher candidate selects a volume of appropriately complex texts about similar topics, themes, and/or ideas that present opportunities for instruction and assessment of age- or grade-level standards.

2. The teacher candidate selects and uses multiple academic standards for instruction with selected complex texts about similar topics, themes, or ideas to identify sections for rereading (e.g., through interactive read aloud, read along, pair or group reading, independent reading) and create and sequence questions and tasks.

3. The teacher candidate anticipates students' misconceptions or challenges and identifies a variety of grade-level appropriate instructional strategies to scaffold instruction and provide all students with opportunities to read, understand, and express understanding through conversations and writing using grade-level appropriate language, conventions, spelling, and structure.

C. The teacher candidate selects or designs and implements instructional materials that develops students' ability to meet the age- or grade-level standards for reading, writing, speaking and listening, and language by composing a range of oral, written, and visual texts (e.g., formal and informal, process and on-demand, different genres for a variety of purposes and audiences).

1. The teacher candidate selects and uses multiple academic standards for instruction with selected complex texts about similar topics, themes, and ideas to select or design composition tasks that explain, analyze, challenge, or extend the language, craft, topics, themes, and ideas of the texts.

2. The teacher candidate locates models of writing in complex texts (e.g., word choice, syntax, sentence variety and fluency, text structure, style) and selects or designs and implements instruction that develops students' ability to use the models to advance language, structure, and style in their own writing.

3. The teacher candidate facilitates classroom discussions based on the age- or grade-level standards for speaking and listening that allow students to refine their thinking about the language, craft, topics, themes, and/or ideas in complex texts in preparation for writing, when appropriate, as indicated by academic standards.

4. The teacher candidate develops, based on academic standards, students' ability to create an organizing idea or thesis statement, effectively organize and develop a written, oral, or visual response, and, when appropriate, develop a topic or support an opinion or claim about the language,

craft, topics, themes, and/or ideas in complex texts using relevant evidence.

5. The teacher candidate provides opportunities incorporating technology for students to plan, draft, revise, edit, and publish written, oral, visual, and digital texts, individually and collaboratively (e.g., through shared and small-group writing, peer editing) to communicate knowledge, ideas, understandings, insights, and experiences.

6. The teacher candidate anticipates how students may use non-standard language orally and in writing and selects or designs and implements instruction based on age- or grade-level standards to develop students' ability to use language conventions (e.g., grammar, usage, and mechanics) accurately and strategically in their writing for different audiences and purposes.

7. The teacher candidate selects or designs and implements tasks for all students, as indicated by academic standards for reading, writing, speaking and listening, and language that require research of a topic, theme, or idea presented in complex texts and communication of findings orally and in writing.

D. The teacher candidate applies knowledge of language, reading, and writing development to select or design and use a range of ongoing classroom assessments (e.g., diagnostic, formal and informal, formative and summative, oral and written) which measure students' ability to read, understand, and demonstrate understanding of a range of grade-level complex texts to inform and adjust planning and instruction.

1. The teacher candidate selects or designs a range of ongoing assessments (e.g., formal and informal, formative and summative, oral and written) to measure students' ability to use their knowledge of language (e.g., print concepts, phonological awareness, phonics and word recognition) to accurately and fluently read, understand, and express understanding of a range of continuous texts.

2. The teacher candidate applies knowledge of reading, writing, and language development to identify trends in students' reading foundational skills, writing, and language development and identify students who are in need of additional support with decoding, fluency, vocabulary development, speaking and listening, writing, grammar.

3. The teacher candidate assesses specific reading behaviors often associated with fluency problems (e.g., lack of automaticity, substitution, omissions, repetitions, inappropriate reading rates, inaccuracy); recognize atypical developmental patterns; and collaborate with colleagues and specialists to plan and implement appropriate instructional support(s) that address individual needs without replacing regular classroom instruction.

4. The teacher candidate assesses students' written expression skills (e.g., handwriting for elements of legibility, such as letter formation, size and proportion, spacing; and keyboarding for proper technique and style, such as adequate rate and accuracy, appropriate spacing, proficiency with word processing programs), identifies elements that need improvement, and designs instructional supports that support students' developing mastery.

5. The teacher candidate uses assessment trends to make adjustments to instructional plans (e.g., re-teaching, targeted mini-lessons, individualized or small-group remediation or extension) and identify differentiated

instructional supports that provide all students with opportunities to read, understand, and express understanding of complex texts, as determined by age- or grade-level standards.

6. The teacher candidate uses assessment trends to form flexible groups of students and select or design and implement small-group instruction to improve students' ability to read independently a range of continuous texts and write in response using age- or grade-level appropriate conventions, spelling, language, and structure.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **§225. Disciplinary Literacy Competencies**

A. The teacher candidate applies knowledge of the theoretical and evidence-based foundations of reading and writing processes and specific disciplinary literacy expectations as described in academic standards to select or design and implement an integrated and comprehensive curriculum that develops students' understanding of content.

1. The teacher candidate explains the research and theory of disciplinary literacy and demonstrates discipline-specific reading and writing skills.

2. The teacher candidate explains how disciplinary literacy skills are necessary for learning content and expressing understanding of content through writing and speaking based on the academic standards for their certification content area.

3. The teacher candidate selects or designs and implements discipline-specific curriculum and instructional materials which incorporate technology to support instructional goals and objectives for the disciplinary literacy demands of the certification content area and differentiates the materials for the range of literacy needs of adolescent readers.

4. The teacher candidate selects, assesses the accuracy and credibility of, and uses a range and volume of print, digital, visual, and oral discipline-specific texts (e.g., primary and secondary sources in social studies or current research, informational journals, and experimental data and results in science) as instructional tools.

B. The teacher candidate applies knowledge of disciplinary literacy to select and use appropriate and varied instructional approaches to build all students' ability to understand and express their understanding of discipline-specific content through reading, writing, speaking, and language.

1. The teacher candidate provides opportunities for students to learn and use vocabulary and language specific to the certification content area, practice discipline-specific reading and writing strategies, and gain and express understanding of content by exploring key questions through grade-level print, digital, visual, and oral discipline-specific texts.

C. The teacher candidate applies knowledge of disciplinary literacy to select or design and use a range of ongoing classroom assessments (e.g., diagnostic, formal and informal, formative and summative, oral and written) which measure students' mastery of grade-level standards in order to inform and adjust planning and instruction.

1. The teacher candidate assesses students' ability to understand and use discipline-specific vocabulary and

language; gain knowledge and understanding of content through grade-level, discipline-specific texts; and express their knowledge and understanding through speaking and writing.

2. The teacher candidate uses trends in assessment results to plan lessons, make adjustments to instruction, and provide remediation and enrichment opportunities for students.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Subchapter F. Mathematics Teacher Competencies**

### **§227. Introduction**

A. The mathematics teacher preparation competencies identify essential knowledge and skills for teacher candidates seeking certification in birth to kindergarten, pre-kindergarten-third grade, elementary grades 1-5, elementary grades 1-5 integrated to merged, mathematics grades 4-8, mathematics grades 4-8 integrated to merged, mathematics 6-12, and mathematics 6-12 integrated to merged.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§229. Content Knowledge Competencies**

A. With respect to the academic standards for mathematics for the certification grade band and neighboring grade bands, the teacher candidate, at minimum, demonstrates the following competencies to plan for instruction, teach, and assess student learning:

1. Provides exact, explicit definitions of mathematical ideas and concepts using appropriate mathematical language.

2. Provides precise, accurate, useful descriptions of algorithms and procedures, including descriptions of the accuracy of alternative procedures or algorithms.

3. Exhibits an integrated, functional grasp of mathematical concepts and procedures.

4. Explains concepts and executes procedures flexibly, accurately, efficiently, and appropriately.

5. Models the mathematical dispositions and habits of mind described in the Practice Standards, including precision of language, logical thought, reflection, explanation, and justification.

6. Recognizes and uses the connections between the topics identified in the relevant standards and problems arising in real-world applications.

7. Portrays mathematics as sensible, useful, and worthwhile.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§231. Content Pedagogy Competencies**

A. The teacher candidate applies knowledge of mathematical topics and their relationships within and across mathematical domains to identify key mathematical ideas and select or design mathematically sound lesson sequences and units of study that develop students' conceptual understanding, procedural skill and fluency, and ability to solve real-world and mathematical problems.

1. The teacher candidate appropriately sequences content for instruction within a lesson or unit of study and plans appropriate scaffolding to provide opportunities for students to access and master grade-level standards.

2. The teacher candidate anticipates student misconceptions which may arise during a lesson or unit of study, identifies key points in the lesson or unit to check for misconceptions, and identifies appropriate instructional strategies to respond to misconceptions, including but not limited to questioning, whole group discussion, problem sets, instructional tools and representations that make the mathematics of the lesson explicit.

3. The teacher candidate selects or designs standards-based tasks that use varied strategies, including but not limited to real-life applications, manipulatives, models, diagrams/pictures, that present opportunities for instruction and assessment.

4. The teacher candidate selects or designs practice sets that include scaffolding and differentiation of mathematical content to provide opportunities for students to develop and demonstrate mastery.

5. The teacher candidate identifies appropriate student groupings, for example pairs or small groups, to develop students' conceptual understanding, skill, and fluency with mathematical content as well as independent mathematical thinking.

B. The teacher candidate applies understanding of students' mathematical language development to provide regular opportunities during instruction for students to explain their understanding both in writing and orally through classroom conversations.

1. The teacher candidate explains the connection between students' informal language to precise mathematical language to develop students' ability to use precise mathematical language in their explanations and discussions.

C. The teacher candidate applies understanding of the intersection of mathematical content and mathematical practices to provide regular, repeated opportunities for students to exhibit the math practices while engaging with the mathematical content of the lesson, including but not limited to the following:

1. Uses appropriate prompting and questioning that allow students to refine their mathematical thinking and build upon one another's understanding of the mathematical content of the lesson.

2. Poses challenging problems that offer opportunities for productive struggle and for encouraging reasoning, problem solving, and perseverance in solving problems in the face of initial difficulty;

3. Facilitates student conversations in which students are encouraged to discuss each other's thinking in order to clarify or improve their own mathematical understanding;

4. Provides opportunities for students to choose and use appropriate tools when solving a problem; and

5. Prompts students to explain and justify work and provides feedback that guides students to produce revised explanations and justifications.

D. The teacher candidate applies knowledge of mathematical topics and their relationships within and across mathematical domains to select or design and use a range of ongoing classroom assessments, including but not limited to diagnostic, formal and informal, formative and summative, oral and written, which determine students' mastery of grade-level standards in order to inform and adjust planning and instruction.

1. The teacher candidate identifies errors, gaps, and inconsistencies in students' knowledge, skills, and mathematical reasoning to remediate or scaffold students' learning during lesson implementation, using, but not limited to, the following strategies:

a. oral and written explanations of the elements and structures of mathematics and the meaning of procedures, analogies, and real life experiences;

b. manipulatives, models, and pictures or diagrams; and

c. problem sets.

2. The teacher candidate uses trends in assessment results to plan lesson structure and sequence, instructional strategies, remediation and enrichment opportunities for students.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Subchapter G. Early Childhood Teacher Competencies**

### **§233. Introduction**

A. The early childhood teacher preparation competencies identify essential knowledge and skills for teacher candidates seeking early childhood ancillary certification and certification in birth to kindergarten.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§235. Early Childhood Pedagogy Competencies**

A. The teacher candidate designs instructional learning outcomes that are written in terms of what children will learn rather than do and include indicators from applicable Louisiana Birth to Five Early Learning Development Standards (ELDS) domains, and are appropriate for diverse learners (e.g., special education students, ESL students).

B. The teacher candidate provides emotional and behavioral support to children as indicated by the following:

1. creates a positive environment that supports emotional connections between children and adults and between children and their peers;

2. exhibits an awareness and sensitivity to children's emotional and learning needs;

3. allows opportunities for exploration while providing comfort, reassurance and encouragement; and

4. places emphasis on children's perspectives, interests, motivations, and points of view.

C. The teacher candidate manages classroom organization to support children's development as indicated by the following:

1. sets clear, age-appropriate expectations for children's behavior;

2. supports positive behavior by using effective methods, including but not limited to highlighting positive behaviors and redirecting misbehaviors;

3. promotes children's ability to regulate their own behavior, including but not limited to using a proactive approach and planning to minimize disruptions;

4. manages instructional and learning time and routines so children have maximum opportunities to be engaged in learning activities;

5. maximizes children's interest and engagement by being actively involved in the children's learning process; and

6. uses a variety of materials and modalities to gain children's interest and participation in activities.

D. The teacher candidate provides engaged instructional support for learning as indicated by the following:

1. uses interactions and discussions to promote higher-order thinking skills and cognition;
2. focuses on promoting children's understanding rather than on rote instruction or memorization;
3. provides feedback that expands children's learning and understanding;
4. scaffolds learning and provides supportive guidance so that children can to achieve competencies and skills independently;
5. provides opportunities for conversations for the purpose of promoting opportunities for language use;
6. utilizes open-ended questioning techniques to allow children to put language together to communicate more ideas in increasingly complex ways;
7. models language use and forms through repeating and extending children's responses and through self and parallel talk; and
8. uses a variety of words and language forms that are new and unique to extend children's understanding of these parts of language.

E. The teacher candidate uses assessment to guide planning and understand children's levels of growth and development as indicated by the following:

1. conducts observation-based assessments in a systematic, ongoing manner throughout daily routines and activities;
2. gathers and uses assessment data for the purpose of planning instruction, activities, and experiences that further promote children's development and learning;
3. reflects on child assessment data and connections to teacher action and make changes to continuously improve practice; and
4. makes decisions based on the progress of children's development with reliability.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Subchapter H. Other Certification Area Competencies**

### **§237. Introduction**

A. The knowledge and skills needed for teacher candidates who are pursuing certification in the following certification areas are defined in the following standards.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§239. Other Special Education Areas**

A. Early Interventionist Birth-Five Years: Council for Exceptional Children (CEC) Initial Special Education Early Childhood Specialty Set

B. Hearing Impaired K-12: CEC Initial Special Education Deaf and Hard of Hearing Specialty Set

C. Visual Impairments/Blind K-12: CEC Initial Special Education Blind and Visually Impaired Specialty Set

D. Academically Gifted: National Association for Gifted Children (NAGC) Teacher Preparation Standards for Gifted

E. Significant Disabilities 1-12: CEC Initial Special Education Individualized Independence Curriculum Specialty Set

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§241. Middle Grades 4-8 Education**

A. Science Education: National Science Teachers Association (NSTA) Standards for Science Teacher Preparation

B. Social Studies Education: National Council for the Social Studies (NCSS) Standards for the Initial Preparation of Social Studies Teachers

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§243. Secondary Grades 6-12 Education**

A. Agriculture Education: American Association for Agriculture (AAAE) National Standards for Teacher Education in Agriculture

B. Business and Marketing Education: National Association for Business Teacher Education Association (NABTE) Business Teacher Education Standards

C. Computer Science Education: International Society for Technology in Education (ISTE) Standards for Computer Science Educators

D. Family and Consumer Sciences Education: American Association of Family and Consumer Sciences (AAFCS) Standards

E. Foreign Languages Education: American Council on the Teaching of Foreign Languages (ACTFL) Program Standards for the Preparation of Foreign Language Teachers

F. Journalism Education: Association (JEA) Standards for Journalism Educators

G. Science Education: National Science Teachers Association (NSTA) Standards for Science Teacher Preparation

H. Social Studies Education: National Council for the Social Studies (NCSS) Standards for the Initial Preparation of Social Studies Teachers

I. Technology Education: International Society for Technology in Education (ISTE) Standards and International Technology and Engineering Educators Association (ITEEA) Standards

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§245. All Levels K-12 Education**

A. Art Education: National Association of Schools of Art and Design (NASAD) Standards for Art Teacher Preparation

B. Dance Education: National Association of Schools of Dance (NASD) Standards for Dance Teacher Preparation

C. English as a Second Language Education: Teachers of English to Speakers of Other Languages (TESOL) Standards for Teacher Education Programs

D. Foreign Languages Education: American Council on the Teaching of Foreign Languages (ACTFL) Program Standards for the Preparation of Foreign Language Teachers

E. Health and Physical Education: Society of Health and Physical Educators (SHAPE) America Initial Health Education Teacher Education Standards and Initial Physical Education Teacher Education Standards

F. Music Education: National Association of Schools of Music (NASM) Standards for Music Teacher Preparation

G. Theater Education: National Association of Schools of Theatre (NAST) Standards for Theater Teacher Preparation

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **Chapter 3. Teaching Authorizations and Certifications**

#### **Subchapter A. Standard Teaching Authorizations**

##### **§305. Professional Level Certificates**

A. Level 1 is the entry-level professional certificate, valid for three years. The Level 2 and Level 3 certificates are valid for five years.

1. Level 1 Professional Certificate—valid for three years.

a. Eligibility Requirements

i. Louisiana graduate:

(a). successfully complete a state-approved traditional or alternate teacher preparation program;

(b). have a minimum 2.50 grade point average (GPA) on a 4.00 scale;

(c). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification as specified in Section 203 of this bulletin; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was; and

(d). be recommended by a state-approved university or private program provider for certification.

b. Out-of-State Graduate

i. Eligibility requirements:

(a). possess a minimum of a baccalaureate degree from a regionally accredited college or university;

(b). completed a teacher preparation program in another state;

(c). hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the LDE in the state of origin verifying eligibility in that state for a certificate in the certification area(s);

(d). pass all parts of Praxis exam(s) required for Louisiana certification:

(i). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

(ii). if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

(e). has completed student teaching, an internship, or three years of teaching experience in the candidate's area of certification; and

(f). has not been out of teaching in the five years immediately preceding first employment or application for a

Louisiana certificate. A candidate who has not taught in five years may be issued a one-year non-renewable (OS1) certificate while he/she completes six semester hours required for the issuance of a three-year non-renewable (OS) certificate.

ii. A candidate who is certified in another state can qualify for exclusion from the Praxis exam(s) required for Louisiana certification under the following criteria.

(a). He/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an out-of-state certificate for one year in a Louisiana approved public or an approved private school system.

(b). The teacher's employing authority must verify that he/she has completed one year of successful teaching experience in a Louisiana approved public or an approved private school and that he/she has been recommended for further employment.

(c). The employing authority must request that he/she be granted a valid Louisiana teaching certificate.

c. Foreign Applicant—(OS) Certificate

i. Eligibility requirements:

(a). bachelor's or higher level degree verified by a regionally accredited institution in the United States. If the institution is located in Louisiana, the dean of the College of Education must recommend the applicant for certification based upon Louisiana requirements. If the institution is located in another state/country, the guidelines prescribed for out-of-state applicants must be followed; or

(b). credentials may be submitted to the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services or World Education Services for evaluation. The original course-by-course evaluation from AACRAO and World Education Services must be submitted directly from those agencies and must include a statement verifying the comparability of the baccalaureate degree in the field of education.

d. Foreign Applicant—Level 1 Certificate

i. Eligibility requirements:

(a). bachelor's or higher level degree verified by a regionally accredited institution in the United States. If the institution is located in Louisiana, the dean of the College of Education must recommend the applicant for certification based upon Louisiana requirements. If the institution is located in another state/country, the guidelines prescribed for out-of-state applicants must be followed; or

(b). credentials may be submitted to the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services or World Education Services for evaluation. The original course-by-course evaluation for certification must come directly from the evaluating agency and must include a statement verifying the comparability of the baccalaureate degree in the field of education; and

(c). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam(s) in

the certification area(s) in which the teacher preparation program was completed or in which the initial certificate was issued.

**B. Level 2 Professional Certificate—valid for five years.**

**1. Eligibility requirements:**

a. hold or meet eligibility requirements for a level 1 certificate;

b. either successfully meet the standards of effectiveness for three years pursuant to state law and Bulletin 130 or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the teacher was unable to meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year; and

c. accrue three years of experience in area(s) of certification in an approved educational setting.

2. If the level 2 certificate is the applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the level 1 certificated teacher qualifies for advancement to a level 2 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

**C. Level 3 Professional Certificate—valid for five years.**

**1. Eligibility requirements:**

a. hold or meet eligibility requirements for a level 2 certificate;

b. a master's degree from a regionally accredited college or university;

c. five years of experience in area(s) of certification in an approved educational setting.

2. If the level 3 certificate is applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the level 2 certificated teacher qualifies for advancement to a level 3 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

**D. Renewal/Extension Guidelines for Level 1, Level 2, and Level 3 Certificates**

**1. Level 1 certificate:**

a. valid for three years initially and may be extended thereafter for a period of one year at the request of a Louisiana employing authority. Level 1 certificates are limited to two such extensions. Teachers must successfully meet the standards of effectiveness for the renewal of this certificate pursuant to state law and Bulletin 130.

**2. Level 2 and level 3 certificates:**

a. valid for five years initially and may be renewed thereafter for a period of five years at the request of a Louisiana employing authority. For renewal of level 2 and level 3 certificates, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to state law and Bulletin 130;

b. LEAs may request a one-time five-year renewal of the certificate if a teacher was unable to successfully meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year.

**E. Non-Practicing Status for Level 1, 2, 3 Certificates**

1. The LDE may grant non-practicing status to any teacher who applies within a year of ceasing employment as a teacher or leader evaluated pursuant to state law and Bulletin 130. An exception may be made for a teacher or leader who ended employment prior to November 1, 2015 with at least one evaluation rating in 2012-2013, 2013-2014, or 2014-2015.

2. Non-practicing status shall take effect on the last day of employment in the evaluated role, as verified by the employing LEA.

3. Non-practicing teachers returning to practice may apply through a Louisiana education agency for an extension of their certificate for the number of years remaining in the renewal period of the certificate.

4. Final effectiveness ratings earned while in active status will be retained during non-practicing status and applied to any subsequent renewal or extension.

**AUTHORITYNOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICALNOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014), LR 41:2128 (October 2015), LR 43:

**§307. Type C Certificates**

A. Effective July 1, 2002, Type C certificates are no longer issued for initial certification. The Type C certificate is valid for three years. Teachers who hold Type B and Type A lifetime certificates will continue to hold these certificates. Effective July 1, 2012, Type B and Type A lifetime certificates will no longer be issued to teachers holding Type C certificates applying for advanced certificates. Teachers holding a Type C certificate who wish to apply for more advanced certification credentials will be granted a Level 2 certificate, upon meeting the standards of effectiveness for at least three years, pursuant to Bulletin 130 and R.S.17:3902.

**B. Type C Certificate**

**1. Eligibility Requirements:**

a. successfully complete a state-approved traditional or alternate teacher preparation program;

b. a minimum 2.50 GPA on a 4.00 scale;

c. present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams—the Pre-Professional Skills Tests (PPST) in reading, writing, and mathematics; the Principles of Learning and Teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area(s) in which the teacher preparation program was completed or in which the initial certificate was issued;

d. be recommended by a university or private program provider for certification; or meet the requirements of an out-of-state certified teacher (see below for requirements for the Out-of-State Certificate).

2. **Renewal Guidelines.** The Type C certificate may be renewed for an additional three year period upon the request of the Louisiana employing authority, subject to the approval of the LDE.

**C. Type B Certificate—**a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue

in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

- a. hold or meet eligibility requirements for a Type C certificate;
- b. successfully complete the local evaluation plan mandated by state law and *Bulletin 130*; and
- c. three years of experience in area(s) of certification in an approved educational setting.

2. The request for the higher certificate must be submitted directly to the LDE by the employing authority.

D. Type A Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the state Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

- a. hold or meet eligibility requirements for a Type C certificate;
- b. successfully complete the local evaluation plan mandated by state law and *Bulletin 130*;
- c. a master's degree from a regionally accredited institution of higher education; and
- d. five years of experience in area(s) of certification in an approved educational setting.

2. The request for the higher certificate must be submitted directly to the LDE by the employing authority.

E. Process for Reinstating Lapsed Type C, B, and A Certificates

1. A certificate will lapse for disuse if the holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Chapter 13) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1798 (October 2006), amended LR 37:559 (February 2011), LR 38:3136 (December 2012, LR 43:

### §309. Out-of-State (OS) Certificate

A. An out-of-state (OS) certificate, valid for a three year period, is not renewable. It is issued to a teacher who has completed an out-of-state teacher preparation program and either holds or is eligible for a certificate in the state in which the program was completed. The teacher is not initially eligible for a Level 1, 2, or 3 Louisiana certificate but meets Louisiana certification requirements with the exception of the Praxis/National Teacher Exam

requirements. It provides a transition period that permits the holder to be employed in Louisiana K-12 schools while he/she complies with Louisiana Praxis/NTE requirements or meets Praxis exclusion eligibility requirements. For continued employment as a teacher in a Louisiana school system after the three year period has elapsed, the OS certificate holder must fulfill guidelines for a Level 1 or higher-level certificate.

B. Eligibility requirements:

1. baccalaureate degree from a regionally accredited college or university;

2. completed a teacher preparation program in another state;

3. hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the state department of education or college of education dean verifying eligibility in that state for a certificate in the certification area(s);

4. completed student teaching or internship in a certification area, or in lieu of student teaching or internship has three years of successful teaching experience in a certification area; and

5. if applicant earned a degree five or more years prior to the date of application, he/she must have been a regularly employed teacher for at least one semester, or 90 consecutive days, within the five year period immediately preceding first employment in Louisiana or application for a Louisiana certificate. Lacking this experience, he/she must earn six semester hours of credit in state-approved courses (see Chapter 12) during the five year period immediately preceding application. A candidate who has not taught in five years may be issued a one-year non-renewable (OS1) certificate while he/she completes six semester hours required for the issuance of a three-year non-renewable (OS) certificate; and

6. beginning January 1, 2017, the LDE will issue a letter of eligibility for an OS certificate to requesting teachers. The OS certificate will be issued at the request of the Louisiana employing authority.

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. Pass all parts of Praxis exam(s) required for Louisiana certification identified in Section 203:

a. present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

b. if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

c. a candidate who is certified in another state can qualify for exclusion from the Praxis exam(s) required for Louisiana certification under these criteria:

i. he/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at



least three years of successful teaching experience in another state, as determined by the board; and teaches on an OS certificate for one year in a Louisiana approved public or an approved private school system;

ii. the teacher's Louisiana employing authority verifies that he/she has completed one year of successful teaching experience in a Louisiana approved public or an approved private school and that he/she has been recommended for further employment; and

iii. the employing authority requests that he/she be granted a valid Louisiana teaching certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:559 (February 2011), LR 37:882 (March 2011), LR 40:280 (February 2014), LR 43:

### **§311. World Language Certificate (WLC) PK-12**

A. This certificate is valid for six years and may be issued to a foreign associate teacher who participates in the LDE Foreign Associate Teacher Program, and who teaches world language and/or immersion in grades PK-12.

B. This certificate allows the holder to receive the same benefits as any other regularly certified teacher.

C. Eligibility guidelines:

1. a bachelor's degree in education or equivalent preparation in education from a foreign country. The status of this degree will be determined by the LDE. If LDE staff cannot make a degree equivalent determination, the candidate's credentials must be evaluated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO) or by World Education Services (WES). In the case of an AACRAO or WES evaluation, the determination must be on "safe script" paper and must include a course-by-course evaluation;

2. a teaching certificate in the foreign country for the certification area and/or grade level that the candidate will teach in Louisiana;

3. evidence of two years of successful teaching experience in the country of origin; and

4. a native speaker of the language to be taught.

D. Renewal Guidelines. Valid for six years initially and may be renewed thereafter for a period of six years at the request of a Louisiana employing authority. For renewal of a WLC certificate, candidates must successfully meet the standards of effectiveness for at least three years during the six-year initial or renewal period pursuant to state law and Bulletin 130.

E. Professional Certificate. A professional level 1 certificate may be issued after successful completion of the PRAXIS core academic skills for educators, PRAXIS II content area examination(s), and PRAXIS principles of learning and teaching: K-6, 5-9, or 7-12. The test of English as a foreign language may be used in lieu of the PRAXIS core academic skills for educators. For renewal and reinstatement guidelines of a level 1 certificate, see Chapter 3.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:

### **§313. Practitioner Licenses**

A. Practitioner Licenses 1 and 2 may be issued for one school year, renewed annually, and held a maximum of three years while the holder completes an alternate program. Upon completion of the three years of employment on this certificate, the holder must fulfill guidelines for a Level 1 or higher-level certificate for continued employment in a Louisiana school system. The Practitioner License 3 may be issued for one school year, renewed annually, and held a maximum of four years while the holder completes an alternate program. Upon completion of the four years of employment on this certificate, the holder must fulfill guidelines for a Level 1 or higher-level certificate for continued employment in a Louisiana school system.

B. Practitioner License 1—issued to a candidate who is admitted to and enrolled in a state-approved Practitioner Teacher Program.

1. Eligibility requirements:

a. baccalaureate degree from regionally accredited college or university;

b. 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a non-university provider program; or a 2.20 or higher grade point average (GPA) on a 4.00 scale to enter a college or university program; and

c. passing scores on Praxis core academic skills for educators and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the core academic skills for educators requirement.

**NOTE:** Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 3430 semester credit hours in the core subject area.

2. The approved teacher preparation program provider must submit the request for the initial practitioner license directly to the LDE. The teacher is restricted to the specific grade level and content area as designated on the practitioner license.

3. Renewal Requirements. The candidate must remain enrolled in the Practitioner Teacher Program and fulfill a minimum of six semester hours of coursework or equivalent contact hours per year (to the extent that required semester hours remain in the program to be completed), teaching assignments, and prescribed activities identified by the program provider.

4. Program requirements must be completed within the three year maximum that the license can be held. For certification purposes, non-university providers and colleges or universities will submit signed statements to the LDE indicating that the student completing the Practitioner

Teacher Program alternative certification path met the following requirements:

a. passed all licensure exams required for certification pursuant to Section 203;

b. completed all program requirements including the residency with a 2.50 or higher GPA (this applies to candidates in a university program);

c. demonstrated proficiency in reading and literacy competencies through successfully completing the required number of credit or contact hours in reading and literacy as specified in Bulletin 996 or passing a reading competency assessment. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204 or #5204). The current required score is 157. (Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.); and

d. completed prescriptive plans, if need was determined by the preparation provider.

C. Practitioner License 2—issued to a candidate who is admitted to and enrolled in a state-approved certification-only alternate certification program.

1. Eligibility requirements:

a. baccalaureate degree from regionally accredited college or university;

b. 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a non-university provider program or a 2.20 GPA on a 4.00 scale to enter a college or university program; and

c. passing scores on Praxis core academic skills for educators and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 3430 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the core academic skills for educators requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 3430 semester hours of coursework specific to the content area.

2. The request for the initial practitioner license as well as renewals of the license must be submitted directly to the LDE by the employing authority. The teacher is restricted to the specific grade level and content area as designated on the practitioner license.

3. Renewal Requirements. The candidate must remain enrolled in the Certification-Only Alternate Certification Program and fulfill a minimum of nine semester hours of coursework per year (to the extent that required semester hours remain in the program to be completed), teaching assignments, and prescribed activities identified by the program provider.

4. Program requirements must be completed within the three year maximum that the license can be held. For certification purposes, non-university providers and colleges or universities will submit signed statements to the LDE

indicating that the student completing the certification-only alternate program met the following requirements:

a. non-education baccalaureate degree from regionally accredited college or university;

b. completed all program requirements including the residency with a 2.50 or higher GPA (this applies to candidates in a university program); and

c. demonstrated proficiency in reading and literacy competencies through successfully completing the required number of credit or contact hours in reading and literacy as specified in Bulletin 996 or passing a reading competency assessment. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204 or #5204). The current required score is 157. (Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

D. Practitioner License 3—issued to a candidate who is admitted to and enrolled in a state-approved master's degree alternate certification program.

1. Eligibility requirements:

a. baccalaureate degree from regionally accredited college or university;

b. 2.50 GPA on a 4.00 scale; and

c. passing scores on Praxis core academic skills for educators and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 3430 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the core academic skills for educators requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 3430 semester hours of coursework specific to the content area.

2. The request for the initial practitioner license as well as renewals of the license must be submitted directly to the LDE by the employing authority. The teacher is restricted to the specific grade level and content area as designated on the practitioner license.

3. Renewal Requirements: The candidate must remain enrolled in the Master's Degree Alternate Certification Program and fulfill a minimum of nine semester hours of coursework per year (to the extent that required semester hours remain in the program to be completed), teaching assignments, and prescribed activities identified by the program provider.

4. Program requirements must be completed within the four year maximum that the license can be held. For certification purposes, colleges/universities will submit signed statements to the LDE indicating that the student completing the Master's degree alternate certification program met the following requirements:

a. passed all licensure assessments required for certification pursuant to Section 203; and

b. completed all coursework including the residency in the Master's degree alternate certification program with a 2.50 or higher grade point average (GPA); and

c. demonstrated proficiency in reading and literacy competencies through successfully completing the required number of credit or contact hours in reading and literacy as specified in Bulletin 996 or passing a reading competency assessment. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204 or #5204). The current required score is 157. (Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 35:221 (February 2009), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:

### **§315. Standard Certificates for Teachers in Nonpublic Schools**

A. A standard certificate with an asterisk (\*) following the certificate type is issued to a teacher in a non-public school. The asterisk (\*) refers to a statement printed at the bottom of the certificate: "If this teacher enters a public school system in Louisiana, he will be required to meet the standards of effectiveness pursuant to state law and Bulletin 130 for issuance of a Level 2 or Level 3 teaching certificate."

B. Level 2\* (2-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. a Louisiana Level 1 certificate;

b. successfully taught for three years in area(s) of certification;

c. completed a teacher evaluation program for three years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 2\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The Level 2\* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public school he will be required to successfully complete the local evaluation plan mandated by state law and *Bulletin 130* regulations.

C. Level 3\* (3-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. a Louisiana Level 1 or Level 2\* certificate;

b. successfully taught for five years in the area(s) of certification;

c. master's degree from a regionally accredited college or university; and

d. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 3\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The Level 3\* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public school he will be required to successfully complete the local evaluation plan mandated by state law and *Bulletin 130* regulations.

#### **4. Renewal Guidelines for Level 2\* and Level 3\* Certificates**

a. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five year time period immediately preceding the request for renewal. The Louisiana employing authority must request renewal of a Level 2\* or Level 3\* certificate.

b. A teacher with an existing Level 2\* or Level 3\* teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

c. If the holder of an expired Level 2\* or Level 3\* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Louisiana Department of Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

d. A continuing learning unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

D. Type B\* (B-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the Louisiana Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. a Louisiana Type C certificate;

b. successfully taught for three years in area(s) of certification; and

c. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the

principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type B\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Type B\* certificate is valid for life of continuous service in a nonpublic school setting. If the teacher enters a Louisiana public/charter school he/she will be required to complete the local evaluation plan mandated by state law and Bulletin 130 regulations.

E. Type A\* (A-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. a Louisiana Type C, Type B, or Type B\* certificate;

b. successfully taught for five years in the area(s) of certification;

c. master's degree from a regionally accredited college or university;

d. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type A\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The Type A\* certificate is valid for life of continuous service in a nonpublic school setting. If this teacher enters a Louisiana public school he/she will be required to successfully complete the local evaluation plan mandated by state law and *Bulletin 130*.

F. Renewal Guidelines for Level 2\* and Level 3\* Certificates

1. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five-year time period immediately preceding the request for renewal. The request for the Level 2\* or Level 3\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

2. If the holder of an expired Level 2\* or Level 3\* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the Louisiana employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Louisiana Department of Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

3. A continuing learning unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

a. Educators may earn one CLU for each clock hour of active engagement in a high quality professional development activity approved by the employing authority. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the employing authority. Earned CLUs transfer across local education agencies (LEAs).

b. An educator who holds a Level 2\* or Level 3\* professional license is responsible for maintaining documentation regarding acquisition of 150 CLUs for purposes of renewal and for completing the necessary paperwork every five years to renew his/her license. Upon submission of the renewal application to the state, the employing authority must provide an assurance statement signed by the superintendent or his/her designee, with the required listing of earned CLUs as documented by the educator seeking licensure.

G. Reinstating Lapsed Levels 2\* or 3\*, Types B\* or A\* Certificates

1. If the holder of a Level 2\*, Level 3\*, Type B\*, or Type A\* certificate allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Chapter 13) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1801 (October 2006), amended LR 36:752 (April 2010), LR 37:559 (February 2011), LR 38:1952 (August 2012), LR 43:

## **Subchapter B. Nonstandard Teaching Authorizations**

### **§321. Introduction**

A. There are five types of nonstandard teaching authorizations issued in Louisiana: Temporary Authority to Teach (TAT); Out-of-Field Authorization to Teach (OFAT); Temporary Employment Permit (TEP); Nonpublic Temporary Certificate (T); and Resident Teacher Certificate (R). Nonstandard authorizations are of a temporary nature but may be renewed under specified guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), LR 43:

### **§325. Out-of-Field Authorization to Teach (OFAT)**

A. Out-of-Field Authorization to Teach (OFAT)—issued for one three-year period while the holder pursues endorsement (add-on) certification requirements. If the teacher is actively pursuing certification in the field and the LDE has designated the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted.

B. Eligibility Requirements: Issued to an applicant who holds a valid Louisiana Out-of-State Certificate; Temporary Employment Permit; or a Type C, Type B, Type A, Level 1, Level 2, or Level 3 teaching certificate but is teaching outside of the certified area(s).

#### **C. OFAT Stipulations**

1. Districts must submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including consulting the Teach Louisiana website; that "there is no regularly certified, competent, and suitable person available for the position;" and that the applicant is the best-qualified person for the position.

2. If the teacher is actively pursuing certification in the field and the Louisiana Department of Education designates the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted. Designated areas are as follows:

a. applicants pursuing certification in Academically Gifted, Significant Disabilities, Early Interventionist, Hearing Impaired, and Visual Impairments/Blind may be granted two additional years of renewal;

b. applicants pursuing certification in Mild/Moderate may be granted one additional year of renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1804 (October 2006), amended LR 33:2355 (November 2007), LR 35:1487 (August 2009), LR 43:

### **§326. Temporary Employment Permit (TEP)**

A. Temporary Employment Permit (TEP)—Issued for one school year, renewable annually, and may be held a maximum of three years while the holder pursues satisfaction of state Praxis requirements. Upon completion of the three years of employment on this certificate, for continued employment in a Louisiana school system, the holder must fulfill guidelines for a Level 1 or higher-level certificate.

B. Eligibility Guidelines 1: Issued to an applicant who meets all certification requirements with the exception of passing all portions of the NTE Commons examination completed prior to February 20, 1985, but who scores within 10 percent of the composite score required for passage of all exams.

NOTE: This was formerly classified as an Emergency Permit.

1. The Louisiana employing authority must submit the application to the LDE.

2. The Louisiana employing authority must submit a signed affidavit to the LDE stipulating that there is no other applicant meeting all certification requirements who is available for employment for a specific teaching position.

3. Granting of this permit shall not waive the requirement that the person successfully complete the exam.

C. Eligibility Guidelines 2: Issued to an individual who meets all certification requirements with the exception of passing one of the components of the NTE/Praxis examination(s) completed after February 20, 1985, but who has an aggregate score equal to or above the total required on all NTE/Praxis exams for the area of certification. The individual must submit the application and all required materials to the LDE.

D. Renewal Requirements: An individual can be reissued a permit two times only if evidence is presented that the required exam has been retaken twice within one year from the date the permit was last issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1804 (October 2006), LR 43:

### **§328. Resident Teacher Certificate (R)**

A. Beginning July 1, 2018, the Resident Teacher Certificate (R) shall be required for individuals completing a one-year residency required for certification in Louisiana pursuant to *Bulletin 996*.

B. Resident Teacher certificates are valid for one school year, are renewable, and may be held a maximum of three years while the holder pursues certification through a BESE-approved preparation program.

#### **C. Eligibility Guidelines:**

1. Enrollment in a BESE-approved traditional, Master's degree, or Certification-only teacher preparation program;

2. Placement in a classroom in a public or approved non-public school with a teacher of record who holds a valid Level 1, 2, 3, Type A, or Type B teaching certificate in the area for which the candidate is pursuing certification pursuant to *Bulletin 746*;

a. Resident teachers placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and *Bulletin 130*;

3. Passing scores on required core academic skills exams for initial issuance; and

4. Passing scores on required content knowledge exams for renewal.

D. The request for the Resident Teacher license as well as renewal requests must be submitted directly to the LDE by the preparation provider.

E. The LDE will begin issuing Resident Teacher certificates to candidates completing residencies in BESE-approved programs with one-year residencies on July 1, 2017.

F. There shall be no fee charged for the Resident Teacher certificate's issuance.

G. Holders of the Resident Teacher certificate may serve as a substitute teacher in their residency school system for up to ten days each semester. Such service shall not impede a teacher candidate's residency performance or ability to successfully complete the preparation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **Chapter 4. Ancillary School Service Certificates**

##### **Subchapter A. General Ancillary School Certificates**

###### **§417. Educational Leader in Special Education**

###### **Ancillary Certificate**

A. The educational leader in special education ancillary certificate authorizes an individual to serve as a supervisor, director, or coordinator of special education in a school or district setting.

B. Issuance. This certificate is issued upon the request of the Louisiana employing authority.

C. Renewal Guidelines. This certificate is valid for a period of five years and may be renewed thereafter at the request of the Louisiana employing authority. Candidates must successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902. Such renewal shall constitute a renewal of the special education ancillary certificate only and shall not qualify the candidate for the Educational Leader Certificate Level 1 (ELC 1), Educational Leader Certificate Level 2 (ELC 2), or Educational Leader Certificate Level 3.

D. The candidate must:

1. hold one of the below valid Louisiana ancillary certificates:

- a. assessment teacher;
- b. educational consultant;
- c. educational diagnostician;
- d. certified school psychologist (Level B or Level

A);

- e. qualified speech pathologist;
- f. speech therapist;
- g. speech-language pathologist;
- h. speech and hearing therapist;
- i. qualified school social worker; or
- j. qualified licensed audiologist.

2. have at least three years of experience working with students in the area of certification;

3. have completed a graduate degree program from a regionally accredited institution of postsecondary education;

4. provide documented evidence of leadership experiences (240 clock hours or more) at the school; and

5. have a passing score on the School Leaders Licensure Assessment (SLLA) or other equivalent assessment as determined by the state board through its rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1809 (October 2006), amended LR 38:768 (March 2012), LR 43:

#### **Chapter 6. Endorsements to Existing Certificates**

##### **Subchapter A. Regular Education Level and Area Endorsements**

###### **§611. Requirements to add a Secondary (grades 6-12) Specialty Core Content Area (English, Math, Foreign Language, Science, and Social Studies)**

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g.,

4-8, 5-8, 6-8), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area; or 30 credit hours in the specialty content area; and

2. passing Praxis score for Principles of Learning and Teaching 7-12 exam; or

3. passing Praxis score for World Languages Pedagogy (0841) if adding a foreign language after 6/30/13.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music), achieve one of the following:

1. passing score for Praxis secondary specialty area exam(s) required for the content area; or

2. 30 credit hours in the specialty content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1816 (October 2006), amended LR 36:2266 (October 2010), LR 43:

###### **§613. Requirements to Add a Secondary (grades 6-12) Specialty Content Area (Agriculture, Business, Computer Science, Family and Consumer Sciences, Journalism, Marketing, Speech, Technology Education)**

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area or 21 credit hours in the specialty content area; or

2. passing Praxis score for Principles of Learning and Teaching 7-12 exam.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve one of the following:

1. passing score for the Praxis secondary specialty area exam; and

2. 21 credit hours in the specialty content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1816 (October 2006), amended LR 36:2547 (November 2010), LR 43:

#### **Chapter 7. Administrative and Supervisory Credentials**

##### **Subchapter A. The Educational Leadership Certificate**

###### **§705. Educational Leader Certificate Level 1 (EDL 1)**

A. This is the certificate needed by those who fill school and district educational leadership positions (e.g., assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions). This certificate is issued upon the request of the LEA once the individual is hired to serve as an Educational Leader. An

Educational Leader Certificate Level 1 may be obtained through either a master's degree pathway or through one of three alternate pathways.

1. Master's Degree Pathway. To receive an entry-level EDL 1, the candidate must:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. complete a competency-based graduate degree preparation program in the area of educational leadership from a regionally accredited institution of higher education; and

c. have a passing score on the School Leaders Licensure Assessment (SLLA), in accordance with state requirements.

2. Alternate Pathway 1. The Alternate Pathway 1 is for persons who already hold a master's degree and are seeking to receive an EDL 1. The candidate must:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. have previously completed a graduate degree program from a regionally accredited institution of higher education;

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from a regionally accredited institution of higher education. An individualized program will be developed based on a screening of each candidate's competencies upon entering into the graduate alternative certification program; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

3. Alternate Pathway 2. The Alternate Pathway 2 is for persons who already hold a master's degree in education and are seeking to receive an EDL 1. The candidate must:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. have previously completed a graduate degree program in education from a regionally accredited institution of higher education;

c. provide documented evidence of leadership experiences (240 clock hours or more) at the school and/or district level; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

4. Alternate Pathway 3. The Alternate Pathway 3 is for persons who already hold a baccalaureate degree from a regionally accredited institution of higher education and are seeking to receive an EDL 1 through a competency-based educational leader practitioner (residency) program (See Bulletin 996, Chapter 7). The candidate must:

a. hold or be eligible to hold a valid Louisiana Type B or Level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

b. demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider;

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a state-approved private provider or a regionally accredited institution of higher education; and

d. have a passing score on the School Leaders Licensure Assessment (SLLA) in accordance with state requirements.

#### 5. EDL 1 Extensions/Renewals

a. An EDL 1 is valid for three years initially and may be extended thereafter for a period of one year at the request of an LEA. EDL 1 certificates are limited to two such extensions.

b. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five year renewal period in order to renew their endorsement.

6. Districts may require participation in an education leader induction administered by the LEA.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:

## **Chapter 8. Certification Appeal Process**

### **§801. Overview**

A. The certification appeal process is available to an individual who has applied for certification and has been denied the requested certification due to the absence of certification requirements. The process provides such an individual the opportunity to have their appeal evaluated by the Teacher Certification Appeals Council (TCAC). The TCAC will evaluate all appeals and submit a written report of its findings to BESE. The decision of the TCAC is final.

B. Pursuant to Louisiana Revised Statute 17:7(6)(f), the TCAC shall consist of nine members recommended by the state superintendent of education and approved by BESE as follows. Council members shall serve four-year terms.

1. Three council members shall be college of education faculty members, each of whom shall represent a postsecondary education institution participating in both traditional and alternative certification programs. The Louisiana Association of Colleges for Teacher Education, the Louisiana Association of Independent Colleges and Universities, and the Louisiana Association of Teacher Educators shall each submit a list of three nominees. The superintendent shall recommend one college of education faculty member from each such list.

2. Three council members shall be classroom teachers. The Associated Professional Educators of Louisiana, the Louisiana Association of Educators, and the Louisiana Federation of Teachers shall each submit a list of three nominees. The superintendent shall recommend one classroom teacher from each such list.

3. Three council members shall be certified school or system administrators. The Louisiana Association of School Executives, the Louisiana State Association of School Personnel Administrators, and the Louisiana Association of School Superintendents shall each submit a list of three nominees. The superintendent shall recommend one administrator from each such list.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 36:487 (March 2010), LR 43:

### **§803. Appeal Process**

A. An applicant who is denied certification but who believes that he/she has legitimate grounds for an appeal, may submit a Certification Appeal Application to the LDE. Only an individual who has been evaluated and denied certification through the LDE is eligible to file an appeal. The following restrictions apply.

1. An appeal cannot be initiated until an applicant has submitted a complete certification application to the Louisiana Department of Education, Division of Certification, Leadership, and Preparation; the application is reviewed by a certification specialist; and the applicant is notified that he/she is denied the requested certification.

2. The Certification Office must receive an appeal application within 90 days from the date that the certification request was denied.

3. Appeals will not be considered for individuals who:

- a. lack NTE/Praxis requirements for initial certification; or
- b. lack a grade point average of 2.50 for initial certification; or
- c. lack reading requirements per R.S. 17:7.1.A.(4)(a); or
- d. lack 50 percent or more of courses or preparation program requirements required for certification; or
- e. lack the degree required for certification; or
- f. lack a degree from a regionally accredited college or university; or
- g. are requesting issuance or renewal of a non-standard teaching certificate.

h. have not met the standards of effectiveness for three years pursuant to Bulletin 130 and R.S. 17:3902.

4. Appeals relating to the issuance or renewal of certificates based on the standards of effectiveness must follow the grievance procedure through the LEA as identified in Bulletin 130.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 36:487 (March 2010), LR 38:3140 (December 2012), LR 43:

## **Chapter 10. Definitions**

### **§1001. Terms**

*Alternate Teacher Preparation Program*—a pathway designed for candidates with a minimum of a baccalaureate degree earned at a regionally accredited institution. An alternate program combines professional knowledge with

field experiences, including a one year supervised internship in a school setting. For admission to an alternate program, applicants must demonstrate content mastery.

*Ancillary Certificate*—a type of Louisiana certificate that allows a qualified person who is not a certified teacher to provide services in a school setting.

*Baccalaureate*—a term used to denote an undergraduate degree or program (e.g., Bachelor of Arts, Bachelor of Science).

*Certification*—a licensing process whereby qualified professionals become legally authorized to teach or to perform designated duties in the schools under the jurisdiction of the State Board of Elementary and Secondary Education (BESE).

*Continuing Learning Unit (CLU)*—a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a system-approved content-focused professional development activity aligned with the educator's individual professional growth plan.

*Core Subject Areas*—English, reading, language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography.

*Endorsement*—a permanent certification authorization added to an existing teaching certificate.

*Graduate*—a term used to denote a degree, coursework, or program beyond the baccalaureate degree level (e.g., Masters of Education, Masters of Arts in Teaching).

*Industry Based Certification*—a certificate that provides evidence that an individual has successfully demonstrated skill competencies in a specific set of work related tasks, single occupational area, or a cluster of related occupational areas (e.g., Certified Landscape Technician, ASE Certification, Licensed Cosmetologist).

*Non-Education Baccalaureate Degree*—a baccalaureate degree earned through a regionally-accredited institution of higher education that does not result in eligibility for teacher certification in the state in which the program is approved to operate.

*Non-Standard Certificate*—a one year temporary authorization that can be issued three times to an applicant who is pursuing full credentialing as a teacher. To have this certificate re-issued for Year 2 and for Year 3, an applicant must meet specified renewal requirements.

*Paraprofessional*—an employee who provides instructional support in a program supported with Title I, Part A funds.

*Post-Baccalaureate (or old) Alternate Certification Program*—a program offered prior to July 1, 2002, that provided opportunities for individuals with a minimum of a baccalaureate degree to become certified public school teachers. Applicants seeking certification under this program submitted an official transcript for evaluation to a Louisiana college or university that had an approved teacher education program.

*Regionally Accredited*—a term used to denote the status of public recognition that a regionally recognized accrediting agency grants to an educational institution or program that meets the agency's standards and requirements.



*Regularly Employed*—a term used to denote an individual who is a full-time or part-time employee of a school system, and who is not hired on a day-to-day basis.

*Standard Certificate*—a credential issued by the State to an individual who has met all requirements for full certification as a teacher.

*Teacher*—an employee of a city or parish school board or of a BESE special school who holds a teaching certificate and whose legal employment requires certification under the regulations of BESE.

*Teacher Education Program Completer*—an individual who satisfies all requirements of a traditional teacher preparation undergraduate degree program or of an approved alternate teacher preparation program.

*Teaching Certificate*—a license, permit, or certificate issued by the Louisiana Department of Education to an individual who has met all state requirements for certification as a teacher.

*Temporary License*—a teaching authorization held for a short period that is not a standard certificate (see *non-standard certificate* above).

*Traditional Teacher Preparation Program*—a Bachelor of Arts or Bachelor of Science degree program that includes general education courses, certification focus area(s), professional education courses, field experiences, and student teaching in a school setting.

*Undergraduate*—a term used to denote a degree, coursework, or program at the baccalaureate degree level (e.g., Bachelor of Arts, Bachelor of Sciences).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1832 (October 2006), LR 43:

### **§1003. Acronyms**

*BESE*—Board of Elementary and Secondary Education.

*CLU*—Continuing Learning Unit (professional development).

*CTTIE*—Career and Technical Trade and Industrial Education.

*INTASC*—Interstate New Teacher Assessment and Support Consortium.

*LCET*—Louisiana Components of Effective Teaching.

*NASDTEC*—National Association of State Directors of Teacher Education and Certification.

*NCATE*—National Council for Accreditation of Teacher Education.

*OFAT*—Out-of-Field Authority to Teach, a non-standard license.

*TAT*—Temporary Authorization to Teach, a non-standard license.

*TEP*—Temporary Employment Permit, a non-standard license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 37:560 (February 2011), LR 43:

## **Chapter 11. State Guidelines Related to Qualifications for Paraprofessionals and Continuing Learning Units**

### **§1101. General Provisions**

A. This Chapter is divided into two sections:

1. paraprofessional qualifications; and
2. continuing learning units (CLUs)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2053 (October 2007), amended LR 43:

### **§1105. Paraprofessional Qualifications**

A. Definition of Paraprofessional

1. For the purposes of Title I, Part A, a paraprofessional is an employee who provides instructional support in a program supported with Title I, Part A funds. This includes paraprofessionals working in any of the following capacities:

- a. providing one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
- b. assisting with classroom management, such as organizing instructional and other materials;
- c. providing instructional assistance in a computer laboratory;
- d. conducting parental involvement activities;
- e. providing support in a library or media enter;
- f. acting as a translator;
- g. providing instructional support services under the direct supervision of a teacher [Title I, Section 1119(g)(2)].

2. Individuals functioning as interpreters/translators, who are providing communication assistance only (not instructional support), are not considered paraprofessionals under Title I if they possess one of the following Educational Interpreter certificates:

- a. Ancillary Provisional Certificate;
- b. Ancillary Grandfather Certificate; or
- c. Qualified Ancillary Certificate.

3. Individuals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar positions are not considered paraprofessionals under Title I.

C. Requirements for Title I Paraprofessionals. All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must have met the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

1. possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination—GED). This includes paraprofessionals who serve as translators or who conduct parental involvement activities;
2. satisfy one of the following:
  - a. pass a state approved assessment for paraprofessionals;
  - b. obtain an associate (or higher) degree at a higher education institution;

c. complete two years of full-time study at an institution of higher education.

D. Louisiana Pathways for Paraprofessionals to Meet Federal Requirements. The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana offers all paraprofessionals three ways to meet federal requirements.

1. State Test. A paraprofessional who passes the Educational Testing Service (ETS) Para-Pro Assessment will meet state and federal requirements to be classified as a "highly qualified paraprofessional." A paraprofessional who is "not new to the profession" who passes the ACT Work Keys assessment and who has successful observations will meet state and federal requirements to be classified as a "highly qualified paraprofessional."

2. Two Years of Full-Time Study (48 Semester Credit Hours). State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state approved institution of higher education) that would assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

3. Associate Degree. State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state-approved institution of higher education) that would assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

E. State-Approved Institutions of Higher Education. State-approved higher education institutions may offer coursework to paraprofessionals. To be approved by the state, institutions must be accredited by a nationally recognized accrediting entity or granted pre-accreditation status. Newly developed public institutions that are formally seeking accreditation through the Southern Association for Colleges and Schools may obtain pre-accreditation status from the state. A list of approved institutions is available from the Department of Education upon request.

F. Louisiana Definition: Highly Qualified Paraprofessional

1. New to the Profession—a paraprofessional must satisfy one of the following:

- a. passed the ETS Para-Pro Assessment;
- b. has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job;
- c. has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.

2. Not New to the Profession—a paraprofessional must satisfy one of the following:

- a. passed the ETS Para-Pro Assessment;
- b. has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job;
- c. has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education;
- d. has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation.

G. Curriculum-based Pathways for Paraprofessionals. General Education and Teacher Preparation coursework must address the K-12 state content standards, Louisiana Components of Effective Teaching, National Council for the Accreditation of Teacher Education (NCATE) standards, and Praxis expectations. In addition to the ETS ParaPro Assessment, the State specified three curriculum-based pathways for paraprofessionals to meet federal requirements, as follows.

1. Total of 48 Credit Hours
  - a. General Education Courses—15 semester hours:
    - i. English Composition (3 hours);
    - ii. English/reading (6 hours);
    - iii. Mathematics (6 hours).
  - b. Paraprofessional Courses—for the remaining 33 semester hours, acceptance of credit for a course shown on a transcript from an approved institution of higher education is left to school district discretion in addressing needs of a specific job.
    - i. Guidelines for prescriptive plan requiring additional coursework—school districts should consider at least three hours of reading and at least 12 hours from a list of available paraprofessional courses, as follows:
      - (a). Strategies for Teaching and Learning;
      - (b). Assessment of Learning;
      - (c). Classroom and Behavior Management;
      - (d). Addressing the Needs of Exceptional Children.
    - ii. Discipline-specific electives may include as many as 12 hours of developmental (remedial) courses.
2. Associate of Applied Science Degree (60+ credit hours)
  - a. General Education Courses—15 semester hours:
    - i. English Composition (3 hours);
    - ii. Humanities (3 hours);
    - iii. Math—Algebra (3 hours);
    - iv. Natural Sciences (3 hours);
    - v. Social and Behavioral Science (3 hours).
  - b. Teacher Preparation Courses—Child/Adolescent Development (3 hours)
  - c. Paraprofessional Courses—30 semester hours:
    - i. Introduction to Paraprofessional Education (3);
    - ii. Applied Literacy Development (3);
    - iii. Strategies for Teaching and Learning (3);
    - iv. Applied Assessment of Learning (3);
    - v. Applied Classroom Behavior Management (3);

- vi. Addressing the Needs of Exceptional Children (3);
  - vii. Application of Computer Technology (3);
  - viii. Family, School, and Community Relations (3);
  - ix. Health and Safety in Schools (3);
  - x. Paraprofessional Practicum—Teaching, Learning, and Record Keeping (3).
3. Associate of Arts Degree (60+ credit hours)
- a. General Education Courses—54 semester hours:
    - i. English Composition (6 hours);
    - ii. Humanities: English Literature (6 hours);
    - iii. Math—Algebra, etc. (12 hours);
    - iv. Natural Sciences (15 hours);
    - v. Social and Behavioral Science (12 hours);
    - vi. Fine Arts (3 hours).
  - b. Teacher Preparation Courses—9 hours. Select three of the following:
    - i. Child/Adolescent Development (3 hours);
    - ii. Educational Psychology (3 hours);
    - iii. Multicultural/Exceptional Education (3 hours):
      - (a). Educational Technology (3 hours);
      - (b). Children's Literature (3 hours).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 33:2056 (October 2007), LR 43:

#### **§1107. Continuing Learning Units (CLUs)**

A. A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, it is used to quantify an educator's participation in a district or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

B. Educators may earn one CLU for each clock hour of active engagement in a district or system-approved high quality professional development activity. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the district or system. Earned CLUs will transfer across Local Education Agencies (LEAs).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 33:2058 (October 2007), LR 43:

#### **§1109. Federal Legislation Related to Qualifications of Teachers and Paraprofessionals**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 33:2058 (October 2007), repealed LR 43:

#### **§1401. Definitions**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 33:2060 (October 2007), repealed LR 43:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, May 10, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions will have no effect on costs or savings to state or local governmental units.

There will be costs associated with the proposed revisions relative to teacher preparation and certification requirements. A more detailed explanation is contained in the companion Bulletin 996 Standards for Approval and/or Educational Leader Preparation Programs

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1704#062

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 996—Standards for Approval of Teacher and/or  
Educational Leader Preparation Programs  
(LAC 28:XLV.Chapter 7)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for

advertisement to revise *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*: §701, Introduction; §703, Overview; §705, Introduction; §707, Minimum Requirements for Approved Regular Education Programs for Birth to Kindergarten; §709, Minimum Requirements for Approved Regular Education Programs for Grades PK-3; §711, Minimum Requirements for Approved Regular Education Programs for Grades 1-5; §713, Minimum Requirements for Approved Regular Education Programs for Grades 4-8; §715, Minimum Requirements for Approved Regular Education Programs for Grades 6-12; §717, College of Arts/Humanities/Sciences Degree Pathway to Secondary Education Certification (Grades 6-12); §719, Minimum Requirements for Approved Regular Education All-Level Programs for Grades K-12; §721, Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 1-5; §723, Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 4-8<sup>2</sup>; §725, Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 6-12<sup>2</sup>; §727, Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program; §729, Minimum Requirements for Approved Teacher Education Program for Speech, Language, and Hearing Specialists; §731, Introduction; §733, The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §735, The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §737, Certification-Only Program Alternative Path to Certification; §739, The State as a Private Provider; §741, Introduction; §743, Minimum Requirements for Traditional Teacher Preparation Programs; §745, Minimum Requirements for Alternate Teacher Preparation Programs; and §747, Educational Leader Practitioner (Residency) Program. These proposed changes provide relative to teacher preparation and certification requirements.

#### **Title 28**

#### **EDUCATION**

#### **Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

#### **Chapter 7. Louisiana State Standards for Educator Preparation Programs**

#### **§701. Introduction [Formerly §301]**

A. Each educator preparation program seeking approval from the Board of Elementary and Secondary Education (BESE) is required to incorporate and adhere to CAEP standards and to track closely the CAEP accreditation process. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana standards within the accreditation process.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the

Louisiana content standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2454 (November 2004), LR 35:2329 (November 2009), LR 37:563 (February 2011), LR 40:1001 (May 2014).

## **Subchapter A. Traditional Teacher Preparation Programs**

### **§703. Overview**

A. The following are deadline dates for approved traditional teacher preparation programs that meet requirements described in this Subchapter:

1. by no later than January 1, 2018—last date for candidates to be formally admitted into for traditional teacher preparation programs that were approved prior to October 1, 2016 and enroll in coursework during the 2017-2018 academic year;

2. by no later than August 31, 2022—last date for candidates enrolled in traditional teacher preparation programs approved prior to October 1, 2016 to complete those programs.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§705. Introduction**

A. For the traditional teacher preparation program certification structures that BESE has adopted, the following notes apply.

1. Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours shall be on an all-day basis.

2. In addition to the student teaching experience, the student should be provided actual teaching experience (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

3. Three of the flexible hours allowed in the program structure must be in the "humanities." This must occur to meet general education requirements for the board of regents.

4. If students do not possess basic technology skills, they should be provided coursework or opportunities to develop those skills early in their program.

5. Minimum credit hours have been listed. Programs may use the flexible hours to add more content hours to the various elements of the program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§707. Minimum Requirements for Approved Regular Education Programs for Birth to Kindergarten**

A. For certification as a teacher of birth to kindergarten children in the state of Louisiana, the focus is on birth to kindergarten education.

1. General Education—39 semester credit hours. Requirements provide the birth to kindergarten teacher with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—6 semester hours;
- c. sciences—9 semester hours;
- d. social studies—9 semester hours;
- e. arts—3 semester hours.

2. Focus Area: Birth to Kindergarten—30 semester credit hours. Requirements provide the prospective birth to kindergarten teacher with a strong foundation pertaining to the growth and development of young children. All courses are to be aligned to state and national standards for birth to kindergarten:

- a. birth to kindergarten content knowledge and instruction identified by the state as being required for an early childhood/ancillary certificate—9 semester credit hours;
- b. infant/toddler and preschool/kindergarten development—6 semester credit hours;
- c. infant/toddler and preschool/kindergarten methodology—6 semester credit hours;
- d. language and literacy development—3 semester credit hours;
- e. family systems and practicum—6 semester credit hours.

3. Knowledge of the Learner and Learning Environment—9 semester credit hours. Requirements provide the prospective birth to kindergarten teacher with a fundamental understanding of the birth to kindergarten learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- a. educational psychology;
- b. assessment of young children;
- c. behavior management;
- d. diverse/multicultural education.

4. Methodology and Teaching—15 semester hours. Requirements provide the prospective birth to kindergarten teacher with fundamental pedagogical skills:

- a. teaching methodology—6 semester hours;
- b. advanced language development and literacy—6 semester hours;
- c. professional teaching residency and seminar I and professional teaching residency and seminar II—24 semester hours;
- d. flexible hours for the university's use—6 semester hours;
- e. total required hours in the program—120 semester hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:17:6(A)(10), (11), and (15), R.S. 17:7(6), and R.S. 17:407.81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§709. Minimum Requirements for Approved Regular Education Programs for Grades PK-3**

A. For certification as a teacher in grades pre-kindergarten through third (PK-3) in the state of Louisiana, the focus is on the areas of early childhood, reading/language arts, and mathematics.

1. General Education—39 semester hours. Requirements provide the prospective PK-3 teacher with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—9 semester hours;
- c. sciences—9 semester hours;
- d. social studies—6 semester hours;
- e. arts—3 semester hours.

2. Focus on Early Childhood, Reading/Language Arts, and Mathematics—33 semester hours.

a. Requirements provide a greater depth of knowledge in early childhood education:

- i. nursery school and kindergarten coursework—12 semester hours;
- ii. reading/language arts (additional content and teaching methodology)—12 semester hours;
- iii. mathematics—9 semester hours;
- iv. knowledge of the learner and the learning environment, with the emphasis on early childhood—15 semester hours.

b. Requirements provide the prospective PK-3 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- i. child/adolescent development/psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

3. Methodology and Teaching—15 semester hours: Requirements provide the prospective PK-3 teacher with fundamental pedagogical skills:

- a. teaching methodology—6 semester hours;
- b. student teaching—9 semester hours;
- c. flexible hours for the university's use—18 semester hours;
- d. total required hours in the program—120 semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§711. Minimum Requirements for Approved Regular Education Programs for Grades 1-5**

A. For certification as a teacher in elementary grades 1-5 in the state of Louisiana, the focus is on the areas of reading/language arts and mathematics.

1. General Education—54 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—12 semester hours;
- c. sciences—15 semester hours;

d. social studies—12 semester hours;

e. arts—3 semester hours.

2. Focus on Reading/Language Arts and Mathematics—21 semester hours.

a. Requirements provide the prospective elementary grades 1-5 teacher with fundamental pedagogical skills:

- i. reading/language arts (additional content and teaching methodology)—12 semester hours;
- ii. mathematics (additional content and teaching methodology)—9 semester hours;
- iii. knowledge of the learner and the learning environment, with the emphasis on the elementary school student—15 semester hours.

b. Requirements provide the prospective elementary grades 1-5 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

3. Methodology and Teaching: 15 semester hours. Requirements provide the prospective elementary grade 1-5 teacher with fundamental pedagogical skills:

- a. teaching methodology—6 semester hours;
- b. student teaching—9 semester hours;
- c. flexible hours for the university's use—15 semester hours;
- d. total required hours in the program—120 semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§713. Minimum Requirements for Approved Regular Education Programs for Grades 4-8**

A. For certification as a teacher in middle grades 4-8 in the state of Louisiana, the focus is on two in-depth teaching areas.

1. General Education—54 semester hours. Requirements provide prospective middle grades 4-8 teachers with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—12 semester hours;
- c. sciences—15 semester hours;
- d. social studies—12 semester hours;
- e. arts—3 semester hours.

2. Focus Area Number 1—19 hours total combined general education and focus area coursework:

- a. English—7 or more hours;
- b. mathematics—7 or more hours;
- c. social studies—7 or more hours;
- d. science—4 or more hours.

3. Focus Area Number 2—19 hours total combined general education and focus area coursework:

- a. English—7 or more hours;
- b. mathematics—7 or more hours;
- c. social studies—7 or more hours;
- d. science—4 or more hours.

4. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Middle School Student—15 semester hours.

a. Requirements provide the prospective middle grades 4-8 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development/psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

5. Methodology and Teaching—24 semester hours. Requirements provide the prospective middle grades 4-8 teacher with fundamental pedagogical skills:

- a. teaching methodology—9 semester hours;
- b. reading—6 semester hours;
- c. student teaching—9 semester hours;
- d. flexible hours for the university's use—13-16 semester hours;
- e. total required hours in the program—120 semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§715. Minimum Requirements for Approved Regular Education Programs for Grades 6-12**

A. For certification as a secondary teacher in grades 6-12 in the state of Louisiana, the focus is on content in the teaching area.

1. General Education—30 semester hours. Requirements provide prospective secondary grades 6-12 teachers with basic essential knowledge and skills:

- a. English—6 semester hours;
- b. mathematics—6 semester hours;
- c. sciences—9 semester hours;
- d. social studies—6 semester hours;
- e. arts—3 semester hours.

2. Focus Area—a total of 30 hours of combined general education and focus area coursework. These focus hours prepare a prospective secondary teacher of grades 6-12 in the content area essential to the certification area:

- a. English, Social Studies, or Mathematics—25 or more hours; or
- b. science—22 or more hours; or
- c. other focus areas—30 or more hours.

3. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Secondary School Student—15 semester hours.

a. Requirements provide the prospective secondary grades 6-12 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;

- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—18 semester hours. Requirements provide the prospective secondary grade 6-12 teacher with fundamental pedagogical skills:

- a. teaching methodology—6 semester hours;
- b. reading—3 semester hours;
- c. student teaching—9 semester hours;
- d. flexible hours for the university's use—26-35 semester hours;
- e. total required hours in the program—120 semester hours.

NOTE: The following areas are approved primary teaching focus areas, to include a minimum of 30 semester hours of credit: Agriculture; Biology; Business; Chemistry; Computer Science; Earth Science; English; Environmental Science; Family and Consumer Sciences; a specific Foreign Language; General Science; Marketing; Mathematics; Physics; Social Studies; Speech; Technology Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§717. College of Arts/Humanities/Sciences Degree Pathway to Secondary Education Certification (Grades 6-12)**

A. This certification structure identifies courses that candidates must complete if pursuing a degree through the college of arts/humanities/sciences, with an education minor, to become certified to teach secondary grades 6-12.

1. General Education—30 semester hours. These requirements provide prospective secondary grades 6-12 teachers with basic essential knowledge and skills:

- a. English—6 semester hours;
- b. mathematics—6 semester hours;
- c. sciences—9 semester hours;
- d. social studies—6 semester hours;
- e. arts—3 semester hours.

2. Focus Areas: Content Area (semester hours can include general education coursework, if appropriate, and additional coursework)—30 semester hours.

3. Focus Areas: Education—33 semester hours.

a. Knowledge of the Learner and the Learning Environment with the Emphasis on the Secondary School Student—15 semester hours:

- i. adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

b. Methodology and Teaching—18 semester hours. Requirements provide the prospective secondary grades:

- i. 6-12 teacher with fundamental pedagogical skills:
- ii. teaching methodology (six semester hours);
- iii. reading (three semester hours);
- iv. student teaching (nine semester hours).

4. Flexible hours for the university's use—26-35 semester hours. The number of flexible hours is dependent upon the number of general education courses in English, mathematics, science, and social studies that can be applied

toward the major. The number of hours for a content area focus should be a minimum of 30 hours, and the total curriculum (including flexible hours) should be 120 hours.

5. Total required hours in the program 120 semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§719. Minimum Requirements for Approved Regular Education All-Level Programs for Grades K-12**

A. General Education—a minimum of 30 semester hours of credit designed to develop a broad cultural background. The work must be taken in the following five areas:

1. English—6 semester hours;
2. mathematics—6 semester hours;
3. sciences—9 semester hours;
4. social studies—6 semester hours;
5. arts—3 semester hours.

B. Focus area:

1. art—28 semester hours of art coursework;
2. dance—30 semester hours of dance coursework;
3. health and physical education—30 semester hours of health and physical education coursework;

4. vocal music—30 semester hours of vocal music coursework;

5. instrumental music—30 semester hours of instrumental music coursework;

6. vocal and instrumental music—50 semester hours vocal and instrumental music coursework;

7. foreign language—30 semester hours of the language (If French, at least 12 hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana campus, an out-of-state university, or abroad).

C. Knowledge of the Learner and the Learning Environment—18 semester hours.

1. Coursework should address needs of the regular and exceptional child and certification grade categories PK-3, 1-5, 4-8, and 6-12:

- a. child development;
- b. adolescent psychology;
- c. educational psychology;
- d. the learner with special needs;
- e. classroom organization and management;
- f. multicultural education.

D. Methodology and Teaching—18 semester hours:

1. reading—3 semester hours;
2. teaching methodology—6 semester hours;
3. student teaching—9 semester hours;
4. flexible hours for university use—4-26 semester hours;

5. total required hours in the program §120 semester hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§721. Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 1-5<sup>2</sup>**

A. Students who complete an approved blended general/special education mild/moderate program for elementary grade levels 1-5 are eligible for certification in the areas of mild/moderate and elementary grades 1-5. The program focus is on the areas of reading/language arts and mathematics.

1. General Education—54 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—12 semester hours;
- c. sciences—15 semester hours;
- d. social studies—12 semester hours;
- e. arts—3 semester hours.

2. Focus Area: Special Education—21 semester hours:

- a. special education content<sup>3</sup>—21 semester hours.

3. Knowledge of the Learner and the Learning Environment, with Emphasis on the Elementary School Student—15 semester hours.

a. Requirements provide the prospective elementary grades 1-5 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—33 semester hours.

a. Requirements provide the prospective elementary grades 1-5 teacher with fundamental pedagogical skills:

- i. reading and literacy content/methodology—12 semester hours;
- ii. teaching methodology and strategies (science and social studies must be addressed)—6 semester hours;
- iii. math content/methodology—6 semester hours;
- iv. student teaching<sup>4</sup>—9 semester hours;
- v. flexible hours for the university's use—3 semester hours;

vi. total required hours in the program<sup>5</sup> §126 semester hours.

<sup>1</sup>NOTE: Linda P. Blanton, Marleen Pugach, "Collaborative Programs in General and Special Teacher Education: An Action Guide for Higher Education and State Policymakers," pp. 11-24

<sup>2</sup>NOTE: Students who do not possess basic technology skills should provide coursework or opportunities to develop those skill early in their program.

<sup>3</sup>NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

<sup>4</sup>NOTE: (50 percent of the student teaching must include working with and actual teaching of students with disabilities)

<sup>5</sup>NOTE: In addition to the student teaching experience, students should be provided actual teaching experiences (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied



socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§723. Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 4-8<sup>2</sup>**

A. Students who complete an approved blended general/special education mild/moderate program for middle grades 4-8 are eligible for certification in the areas of mild/moderate and the selected middle grades 4-8 content area. The program focus is on special education and one middle school content area.

1. General Education—54 semester hours. Requirements provide the prospective middle grades 4-8 teacher with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—12 semester hours;
- c. sciences—15 semester hours;
- d. social studies—12 semester hours;
- e. arts—3 semester hours.

2. Focus Area, Special Education and One Middle School Content Focus Area—42 semester hours (combined general education and focus area content semester hours should equal 19):

a. middle school content area (English, mathematics, science, or social studies)—21 semester hours;

NOTE: General education coursework may be used to create the 21 semester hours.

b. special education content<sup>3</sup>—21 semester hours.

3. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Middle School Student—15 semester hours.

a. Requirements provide the prospective middle grades 4-8 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—21 semester hours. These requirements provide the prospective middle grades 4-8 teacher with fundamental pedagogical skills:

1. reading and literacy content/methodology—6 semester hours;
2. teaching methodology and strategies—6 semester hours;
3. student teaching<sup>4</sup>—9 semester hours;
4. flexible hours for the university's use—3-6 semester hours;
5. total required hours in the program<sup>5</sup>—123 semester hours.

<sup>1</sup>NOTE: Linda P. Blanton, Marleen Pugach, "Collaborative Programs in General and Special Teacher Education: An Action Guide for Higher Education and State Policymakers," pp. 11-24

<sup>2</sup>NOTE: Students who do not possess basic technology skills should provide coursework or opportunities to develop those skill early in their program.

<sup>3</sup>NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

<sup>4</sup>NOTE: (50 percent of the student teaching must include working with and actual teaching of students with disabilities)

<sup>5</sup>NOTE: In addition to the student teaching experience, students should be provided actual teaching experiences (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§725. Minimum Requirements for Approved General/Special Education Mild-Moderate Undergraduate Program: An Integrated to Merged Approach<sup>1</sup> for Grades 6-12<sup>2</sup>**

A. Students who complete an approved blended general/special education mild/moderate program for secondary grade levels 6-12 are eligible for certification in the areas of mild/moderate and in the selected secondary grades 6-12 content area. The program focus is on special education and one high school content area.

1. General Education—30 semester hours. These requirements provide the prospective secondary grades 6-12 teacher with basic essential knowledge and skills:

- a. English—6 semester hours;
- b. mathematics—6 semester hours;
- c. sciences—9 semester hours;
- d. social studies—6 semester hours;
- e. arts—3 semester hours.

2. Focus Area, Special Education and One High School Content Focus Area—51 semester hours (combined general education and focus area content semester hours should equal 30):

a. secondary school content area—30 semester hours;

NOTE: General education coursework may be used to create the 30 semester hours.

b. special education focus area <sup>3</sup>—21 semester hours.

3. Knowledge of the Learner and the Learning Environment—15 semester hour.

a. These requirements provide the prospective secondary grades 6-12 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—21 semester hours. These requirements provide the prospective secondary grades 6-12 teacher with fundamental pedagogical skills:

a. reading and literacy content/methodology—6 semester hours;

- b. teaching methodology and strategies—6 semester hours;
- c. student teaching<sup>4</sup>—9 semester hours;
- d. flexible hours for the university's use—6-9 semester hours;
- e. total required hours in the program<sup>5</sup>—123 semester hours.

<sup>1</sup>NOTE: Linda P. Blanton, Marleen Pugach, "Collaborative Programs in General and Special Teacher Education: An Action Guide for Higher Education and State Policymakers," pp. 11-24

<sup>2</sup>NOTE: Students who do not possess basic technology skills should provide coursework or opportunities to develop those skill early in their program.

<sup>3</sup>NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

<sup>4</sup>NOTE: (50 percent of the student teaching must include working with and actual teaching of students with disabilities)

<sup>5</sup>NOTE: In addition to the student teaching experience, students should be provided actual teaching experiences (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§727. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program**

A. For Louisiana certification as a teacher for Early Interventionist: Birth to Five Years, the focus of the program is on early childhood and early interventionist.

1. General Education—48 semester hours. These requirements provide the prospective early interventionist teacher with basic essential knowledge and skills:

- a. English—12 semester hours;
- b. mathematics—12 semester hours;
- c. sciences—12 semester hours;
- d. social studies—9 semester hours;
- e. arts—3 semester hours.

2. Focus Area: The Young Child—30 semester hours:

- a. nursery school and kindergarten.—9 semester hours;
- b. reading content—3 semester hours;
- c. special education content\* (with emphasis on infants, toddlers, and preschoolers): foundations in early childhood education and early intervention; physical and medical management; motor speech/language development; sensory and communication differences; understanding and working with families—18 semester hours.

\*NOTE: Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

3. Knowledge of the Learner and the Learning Environment, with the Emphasis on Infants, Toddlers, and Preschoolers—15 semester hours.

a. These requirements provide prospective Early Interventionist teachers with a fundamental understanding of the learner and the teaching/learning process. Coursework

should address the needs of the regular and the exceptional child:

- i. child development/psychology;
- ii. learning environments/diversity/behavior analysis;
- iii. curriculum;
- iv. assessment;
- v. interdisciplinary and interagency teaming and consultation.

4. Methodology and Teaching—15 semester hours. These requirements provide the prospective early interventionist teacher with fundamental pedagogical skills:

- a. reading methodology—6 semester hours;
- b. teaching methodology (early intervention methods infant, toddler, preschool), understanding and facilitating play, teaching mathematics—9 semester hours;
- c. student teaching (infant, toddler, preschool areas)—9 semester hours;
- d. flexible hours for the university's use—7 semester hours;
- e. total required hours in the program§124 semester hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§729. Minimum Requirements for Approved Teacher Education Program for Speech, Language, and Hearing Specialists**

A. For certification as a Speech, Language, and Hearing Specialist through a traditional teacher preparation program, emphasis is placed upon general, professional, and special education coursework.

1. General Education—46 semester hours designed to develop a broad cultural background. The work must be taken in the five areas listed below:

- a.i. English, including at least 3 semester hours in grammar and 3 semester hours in composition—12 semester hours;
- ii. social studies (anthropology, economics, geography, history, political science, sociology, and survey of social science), including at least 3 semester hours in United States history—12 semester hours;
- iii. science, including at least 3 semester hours in biological science, 3 semester hours in physical science, and 3 semester hours in anatomy and physiology—12 semester hours;
- iv. mathematics—6 semester hours;
- v. health and physical education—4 semester hours;

b. universities that wish to require 3 semester hours of computer science should require a minimum of 6 semester hours in mathematics and a minimum of 9 semester hours in science.

2. Professional Education—33 semester hours, which must be taken in the four areas listed below:

- a. history of education, introduction to education, foundations of education, and/or philosophy of education—3 semester hours;

b. educational psychology and/or principles of teaching—3 semester hours;

c. student teaching in speech, language, and hearing therapy with individuals from birth to 22 years of age, in public or nonpublic schools—9 semester hours:

i. student teaching must be supervised according to certification requirements for supervisor of student teachers referred to in Bulletin 746 and according to the mandates of R.S. 17:7.1-R.S. 17:7.2;

d. at least 18 hours of professional education, to include the following:

i. adolescent psychology—3 semester hours;

ii. child psychology—3 semester hours;

iii. introduction to exceptional children—3 semester hours;

iv. teaching of reading—3 semester hours.

3. Special Education Requirements for Speech, Language, and Hearing Services (\*indicates those courses recommended to be taught at the bachelor's level)

a. Basic Requirements

i. \*Educational and/or psychological tests and measurements—3 semester hours.

ii. \*Counseling methods for teaching or psychological counseling—3 semester hours.

iii. \*Abnormal psychology (e.g., Psychology of adjustment, mental hygiene, psychology of the emotionally disturbed)—3 semester hours.

b. Basic Professional Courses:

i. \*American phonetics—3 semester hours.

ii. \*Anatomy and physiology of the speech and hearing mechanism—3 semester hours.

iii. \*Normal speech and language acquisition (to include cultural and regional variations)—3 semester hours.

iv. Voice science and/or acoustics—3 semester hours.

v. \*Methods and materials in speech, language, and hearing therapy in public schools—3 semester hours.

c. Hearing and Hearing Disorders

i. \*General foundations in audiology (including hearing testing)—3 semester hours.

ii. Advanced hearing testing—3 semester hours.

iii. \*Aural rehabilitation—3 semester hours.

d. Speech and Language Disorders: A minimum of 30 hours, to include the following:

NOTE: No more than six of the following semester hours may be counted in clinical practicum credits.

i. \*survey or introduction to communicative disorders—3 semester hours;

ii. \*articulation disorders—3 semester hours;

iii. \*language disorders—3 semester hours;

iv. \*disorders of rhythm (to include stuttering)—3 semester hours;

v. \*voice disorders—3 semester hours;

vi. cleft palate, orofacial disorders—3 semester hours;

vii. neurological disorders (cerebral and peripheral neurological disorders)—3 semester hours;

viii. aphasia—3 semester hours;

ix. diagnosis and diagnostic practicum with speech and language disorders—3 semester hours;

x. a minimum of 30 semester hours must be earned at the graduate level, excluding 6 semester hours of practicum.

e. A minimum of 375 clock hours of supervised clinical practicum is required, of which at least 100 clock hours must have been earned at the undergraduate level. These hours must include experiences with individuals from birth to 21 years of age and shall include at a minimum the following distribution of hours or the distribution of hours as specified for clinical practicum be the American Speech-Language-Hearing Association (ASHA). A minimum of:

i. 50 hours in diagnosis;

ii. 50 hours in hearing, testing, and auditory rehabilitation;

iii. 75 hours in language disorders;

iv. 30 hours in articulation disorders;

v. 30 hours in rhythm disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Subchapter B. Alternate Teacher Preparation Programs**

### **§731. Introduction**

A. The following are deadline dates for approved alternate teacher preparation programs that meet requirements described in this Subchapter:

1. by no later than January 1, 2018—last date for candidates to be formally admitted into alternate teacher preparation programs that were approved prior to October 1, 2016;

2. by no later than August 31, 2021—last date for candidates enrolled in approved alternate teacher preparation programs that were approved prior to October 1, 2016 to complete programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§733. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)**

A. State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a practitioner teacher program for certification in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), or general-special education mild/moderate: an integrated to merged approach for grades 1-5, grades 4-8 and grades 6-12. The practitioner teacher program is a streamlined certification path that combines intensive coursework and full-time teaching.

B. Admission to the Program. Program providers work with district personnel to identify practitioner teacher program candidates who will be employed by districts during the fall and spring semesters for candidates admitted in a summer preparation session and during the spring semester and successive fall semester for candidates admitted in a fall preparation session. For admission, candidates must:

1. possess a non-education baccalaureate degree from a regionally accredited university;

2. have 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a private provider program;

3. have 2.20 or higher grade point average (GPA) on a 4.00 scale to enter a college or university program;

4. pass the Praxis core academic skills for educators in reading, writing, and mathematics. Candidates who already possess a graduate degree will be exempted from this requirement;

5. pass the Praxis content-specific examinations. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area. The provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

6. meet other non-course requirements established by college or university.

C. Teaching Preparation (Summer Preparation Session or Fall Preparation Session)

1. All teachers will participate in field-based experiences in school settings while completing the summer/fall courses (or equivalent contact hours).

2. Grades PK-3 practitioner teachers will successfully complete courses or equivalent contact hours that focus on child development or psychology, family and community relationships, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships (12 credit hours or equivalent 180 contact hours).

3. Grades 1-5, 4-8, and 6-12 practitioner teachers will successfully complete courses or equivalent contact hours that focus on child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships (9 credit hours or equivalent 135 contact hours).

4. General-Special Education Mild/Moderate. An integrated to merged approach for grades 1-5 practitioner teachers will successfully complete courses or equivalent contact hours that focus on methodology, behavior management (classroom management of students with disabilities), curriculum based assessment/IEP, vocational transition, foundation of reading, foundations of special education, and child psychology before starting their teaching internships (12 credit hours or equivalent 180 contact hours).

5. General-Special Education Mild/Moderate. An integrated to merged approach for grades 4-8 practitioner teachers will successfully complete courses or equivalent contact hours that focus on methodology, behavior management (classroom management of students with disabilities), curriculum based assessment/IEP, vocational transition, reading and literacy, foundations of special education, child and adolescent psychology before starting their internships (12 credit hours or equivalent 180 contact hours).

6. General-Special Education Mild/Moderate. An integrated to merged approach for grades 6-12 practitioner teachers will successfully complete courses or equivalent contact hours that focus on methodology, behavior management (classroom management of students with disabilities), curriculum based assessment/IEP, vocational transition, reading and literacy, foundations of special education, adolescent psychology before starting their internships (12 credit hours or equivalent 180 contact hours).

7. All-level K-12 practitioner teachers will successfully complete courses or equivalent contact hours that focus on child and adolescent psychology, the diverse learner, classroom management and organization, assessment, instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships (9 credit hours or equivalent 135 contact hours).

D. Teaching Internship and First-Year Support (12 credit hours or equivalent 180 contact hours)

1. Practitioner teachers assume full-time teaching positions in districts. During the school year, candidates participate in two seminars (during the fall and during the spring or the spring and fall, depending on entry point) that address immediate needs of the practitioner teacher program teachers, and receive one-on-one supervision through an internship provided by the program providers.

2. For all-level areas (art, dance, foreign language, health and physical education, and music), field experiences should be provided across grades K-12.

3. For general-special education mild/moderate grades 1-5, grades 4-8 and grades 6-12 seminars will cover instructional strategies in core content areas, state reading competencies with alignment to state literacy plan; numeracy strategies; classroom management; lesson plans development and implementation; assessment; collaboration between special education and general education (e.g., co-planning, co-teaching, behavior intervention, accommodations, services/support); collaboration with parents; and data-driven decision making or any other identified needs. Technology will be addressed in all grade levels.

4. For general-special education mild/moderate grades 1-5, grades 4-8 and grades 6-12 seminars will cover instructional strategies in core content areas, state reading competencies with alignment to state literacy plan; numeracy strategies; classroom management; lesson plans development and implementation; assessment; collaboration between special education and general education (e.g., co-planning, co-teaching, behavior intervention, accommodations, services/support); collaboration with parents; and data-driven decision making or any other identified needs. Technology will be addressed in all grade levels.

E. Teaching Performance Review (End of First Year)

1. Program providers, principals, mentors, and practitioner teachers form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency.

2. Grades PK-3, Grades 1-5, Grades 4-8, Grades 6-12 and All-Level K-12. If weaknesses are cited, teams will identify additional types of instruction to address areas of need. Prescriptive plans that require from one to nine credit hours of instruction, or 15 to 135 equivalent contact hours, will be developed for practitioner teachers.

3. General-Special Education Mild/Moderate Special Education Candidates. If weaknesses are cited, teams will identify additional types of instruction to address areas of need. Prescriptive plans that require from three to nine credit hours of instruction, or 45 to 135 equivalent contact hours, will be developed for practitioner teachers.

F. Prescriptive Plan Implementation (Second Year)

1. Grades PK-3, Grades 1-5, Grades 4-8, Grades 6-12 and All-Level K-12 (1 to 9 credit hours, or 15 to 135 contact hours). Candidates who demonstrate areas of need will complete prescriptive plans.

2. General-Special Education Mild/Moderate Special Education (3 to 9 credit hours, or 45 to 135 contact hours). Candidates who demonstrate area of need will complete prescriptive plans. Practitioner teachers will use prescriptive hours to meet the reading competency requirements by completing the same number of semester hours in reading as required for undergraduate teacher preparation programs:

- a.i. elementary 1-5 programs—9 hours;
- ii. middle grades 4-8 programs—six hours;
- iii. secondary grades 6-12 programs—3 hours; or
- b. pass a reading competency assessment.

G. Total hours required in the program:

1. grades PK-3 program—24-33 credit hours (or equivalent 360-495 contact hours);

2. grades 1-5, 4-8, 6-12, all-level (K-12) programs—21-30 credit hours (or equivalent 315-450 contact hours);

3. general-special education mild/moderate grades 1-5, grades 4-8, and grades 6-12 programs—27-33 credit hours (or equivalent 405-495 contact hours).

H. Praxis Review (Second Year). Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the Praxis.

I. Program requirements must be met within a three year time period. For certification purposes, private providers and colleges or universities will submit signed statements to the Department of Education indicating that the student completing the Practitioner Teacher Program alternative certification path met the following requirements:

1. passed the core academic skills for educators components of the Praxis;

NOTE: This test was required for admission.

2. completed all program requirements including the internship with a 2.50 or higher GPA (this applies to candidates in a university program);

3. completed prescriptive plans (if weaknesses were demonstrated);

4. passed the Praxis specialty examination for the area(s) of certification;

NOTE: This test was required for admission.

e. all-level K-12 areas (art, dance, foreign language, health and physical education, and music)—Subject-specific examination(s) for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program;

5. passed the pedagogy examination (Praxis);

6. All candidates entering an alternate certification program after May 1, 2004, must demonstrate proficiency in the reading competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

i. early childhood PK-3, elementary 1-5 or general-special education mild/moderate 1-5 programs—9 hours;

ii. middle grades 4-8 programs or general-special education mild/moderate 4-8—6 hours;

iii. secondary 6-12 all-level K-12 or general-special education mild/moderate 6-12 programs—3 hours;

iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired)—9 hours; or

b. pass a reading competency assessment.

7. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is identified in Bulletin 746. Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.

J. Ongoing support (second and third year) program providers will give support services to practitioner teachers during their second and third years of teaching. Support types may include online support, internet resources, special seminars, etc.

K. Undergraduate, Graduate Courses; Graduate Programs. Universities may offer the practitioner teacher program courses at the undergraduate or graduate-level. Efforts should be made to allow students to use graduate hours as electives if they are pursuing a graduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§735. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)**

A. A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. The college or university may offer the master's degree program as either a master of education or a master of arts in teaching. Master's degree programs may offer certification in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, music), early interventionist birth to five years, general-special education mild/moderate: an integrated to merged approach for grades 1-5, grades 4-8, and grades 6-12, significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12.

B. For all special education programs, the Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

C. Admission to the Program. To be admitted, candidates must:

1. possess a non-education baccalaureate degree from a regionally accredited university;

2. have a 2.50 or higher grade point average (GPA) on a 4.00 scale;

3. pass the Praxis core academic skills for educators in reading, writing, and mathematics (individuals who already possess a graduate degree will be exempted from this requirement);

4. pass the Praxis content-specific examinations. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program. The provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

5. meet other non-course requirements established by the college/university.

D. Program Requirements

1. Knowledge of Learner and the Learning Environment (15 credit hours)

a. Grades PK-3, 1-5, 4-8, 6-12—child or adolescent development or psychology; the diverse learner; classroom management/organization; assessment; instructional design and instructional strategies.

b. General-Special Education Mild/Moderate: An Integrated to Merged Approach for Grades 1-5—behavior management (classroom management of students with disabilities), curriculum based assessment/IEP, vocational transition, foundations of special education and child psychology.

c. General-Special Education Mild/Moderate: An Integrated to Merged Approach for Grades 4-8—behavior management (classroom management of students with disabilities), curriculum based assessment/IEP, vocational transition, foundation of special education, child/adolescent psychology.

d. General-Special Education Mild/Moderate: An Integrated to Merged Approach for Grades 6-12—behavior management (classroom management of students with disabilities), curriculum based assessment/IEP, vocational transition, foundation of special education, adolescent psychology.

e. All-Level (grades K-12)—Coursework across grade levels K-12, as follows: Child and adolescent psychology; the diverse learner; classroom management/organization; assessment; instructional design and instructional strategies.

f. Special Education Early Interventionist Birth to Five Years (coursework specific to infants, toddlers, and preschoolers)—child development or psychology; learning environment and behavior analysis; motor, sensory, and communication differences; teaming, physical, and medical management; understanding and working with families; communication and literacy in early intervention.

g. Special Education Significant Disabilities 1-12 (coursework specific to needs of children with significant disabilities)—assessment and evaluation, including IEP and ESYP; communication strategies; behavior support; collaborative techniques and family partnerships; physical support, health and safety; special education law; characteristics of individuals with significant disabilities.

h. Special Education Hearing Impaired K-12 (coursework specific to the needs of hearing impaired students)—assessment and evaluation; special needs of students with disabilities; transition; instructional strategies and planning in the content areas; instructional strategies in literacy; education law, special education law, school structure; technology in schools; diversity in schools.

i. Special Education Visual Impairments/Blind K-12 (coursework specific to the needs of visually impaired students)—educational implications of low vision and blindness; orientation and mobility for the classroom teacher; assessment/evaluation techniques, including functional vision evaluation and reading media assessment; assistive technology for the visually impaired; education law, special education law, school structure; transition.

2. Reading

a. General-Special Education Mild/Moderate: An Integrated to Merged Approach for Grades 1-5: foundations of reading, reading and literacy—9 credit hours.

b. General-Special Education Mild/Moderate: An Integrated to Merged Approach for Grades 4-8 and Grades 6-12: reading and literacy—6 credit hours.

3. Methodology and Teaching

a. For Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music): Methods courses and field experiences—12 to 15 credit hours.

b. For General-Special Education Mild/Moderate: Grades 1-5: methodology, instructional strategies in core content areas—3 to 6 hours.

c. For General-Special Education Mild/Moderate: Grades 4-8 and Grades 6-12: methodology, instructional strategies in specific core content area—6 hours.

NOTE: For All-Level K-12 areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

d. For special education Early Interventionist Birth to Five Years (coursework specific to needs of infants, toddlers, and preschoolers)—curriculum; assessment; early intervention methods; understanding and facilitating play; teaching of reading and mathematics.

e. For special education Significant Disabilities 1-12 (coursework specific to needs of children with significant disabilities, across grades 1-12)—curriculum development and modifications; transition planning; instructional strategies; inclusive education practices.

f. For special education Hearing Impaired K-12 (coursework specific to needs of children with hearing impairments across grades K-12)—language development and linguistic principles in language acquisition; speech development, speech reading, audition training; assessment and evaluation; instructional strategies; audiology, and audiology training; anatomy and physiology of the hearing mechanism; auditory assistive devices; history and psychology of deafness; assistive devices and technology; proficiency in either signed, cued, or oral communication.

g. For special education Visual Impairments/Blind K-12 (coursework specific to needs of visually impaired students, across grades K-12)—instructional strategies; Braille code, teaching Braille reading (with proficiency as defined in LA State Competencies); Nemeth code, teaching Braille mathematics; using slate and stylus.

4. Student Teaching or Internship—6-9 credit hours

NOTE: For all-level K-12 areas of art, dance, foreign language, health and physical education, and music, experiences should be provided across grades K-12.

5. Total hours required in the Grades PK-3, Grades 1-5, Grades 4-8, Grades 6-12, All-Level K-12, Early

Interventionist Birth to Five Years, Significant Disabilities 1-12, Hearing Impaired, K-12, and Visual Impairments/Blind K-12 programs—33-39 credit hours.

a. Total hours required in the General-Special Education Mild/Moderate: An Integrated to Merged Approach for Grades 1-5, Grades 4-8 and Grades 6-12 programs—33-42 credit hours (electives 0-3 credit hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§737. Certification-Only Program Alternative Path to Certification**

A. State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a certification-only program for certification in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), early interventionist birth to five years, hearing impaired K-12, significant disabilities 1-12, and visual impairments/blind K-12. This program offers flexibility in delivery (e.g., face to face and/or online) and is designed to serve candidates who may not elect participation in or be eligible for certification under either the practitioner teacher alternate certification program or the master's degree alternate certification program.

B. All programs must address the state and national standards, including the performance-based standards for accreditation and licensure (e.g., CEC, NCTE, NCTM, NCSS, NAEYC, etc.).

#### **C. Admission to the Program**

1. Screening. The selection process will identify candidates that possess critical thinking skills, proven track records of achievement, a belief that all students can achieve, and a strong desire to teach in schools that educate under-served children.

2. Degree Requirements. Possess a non-education baccalaureate degree from a regionally accredited university.

3. GPA Requirements. The GPA may be calculated using the last 60 hours of coursework earned from a regionally accredited university:

a. have 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a private provider program;

b. have 2.20 or higher grade point average (GPA) on a 4.00 scale to enter a college or university program.

#### **4. Testing requirements:**

a. pass the Praxis core academic skills for educators. Candidates who already possess a graduate degree will be exempted from this requirement. An ACT composite score of 22 or a SAT combined verbal/critical reading and math score of 1030 may be used in lieu of Praxis core academic skills for educators exams;

b. pass the Praxis content-specific subject area examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program. Provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

#### **D. Program Requirements and Structure**

1. Eighty contact hours of classroom readiness training will focus on instructional design and delivery as well as classroom environment and classroom management. Candidates will be provided with professional guidance, support and opportunities to observe classroom teachers.

2. Knowledge of the Learner and the Learning Environment—12 hours or equivalent contact hours. All courses/contact hours for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course or contact hour. Courses/contact hours must address the following:

a. grades PK-3, 1-5, 4-8, 6-12—child/adolescent development or psychology, the diverse learner, classroom management/organization/ environment, assessment, instructional design, and reading/ instructional strategies that are content and level appropriate;

b. all-level K-12 areas—child psychology and adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design; and reading/instructional strategies (all coursework/contact hours should address grade levels K-12);

c. special education early interventionist birth to five years (coursework/contact hours specific to infants, toddlers, and preschoolers)—child development or psychology; foundations in early childhood education; teaming, physical, and medical management; understanding and working with families; communication and literacy in early intervention;

d. special education significant disabilities 1-12 (coursework/contact hours specific to needs of children with significant disabilities)—assessment and evaluation; communication strategies; behavior support; collaborative techniques and family partnerships; physical support, health and safety; special education law; characteristics of individuals with significant disabilities;

e. special education hearing impaired K-12 (coursework/contact hours specific to the needs of hearing impaired students)—assessment and evaluation; special needs of students with disabilities; transition; instructional strategies and planning in the content areas; instructional strategies in literacy; education law, special education law, school structure; technology in schools; diversity in schools;

f. special education visual impairments/blind K-12 (coursework/contact hours specific to the needs of visually impaired students)—educational implications of low vision and blindness; orientation and mobility for the classroom teacher; assessment/evaluation techniques, including functional vision evaluation and reading media assessment; assistive technology for the visually impaired; education law, special education law, school structure; transition.

3. Methodology and Teaching—6 semester hours or equivalent contact hours of content-specific methods courses and field/clinical experiences:

a. for grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), methods courses/contact hours to include case studies and field experiences;

NOTE: For all-level K-12 areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

b. for special education early interventionist birth to five years (coursework/contact hours specific to needs of infants, toddlers, and preschoolers)—curriculum; assessment; early intervention methods (including understanding and facilitating play); teaching of reading and mathematics;

c. for special education significant disabilities 1-12 (coursework/contact hours specific to the needs of children with significant disabilities)—curriculum development and modifications; transition planning; instructional strategies; inclusive education practices;

d. for special education hearing impaired K-12 (coursework/contact hours specific to needs of children with hearing impairments, across grades K-12)—language development and linguistic principles in language acquisition; speech development, speech reading, audition training; assessment and evaluation; instructional strategies; audiology and audiology training; anatomy and physiology of the hearing mechanism; auditory assistive devices; history and psychology of deafness; assistive devices and technology; proficiency in either signed, cued, or oral communication;

e. for special education visual impairments/blind K-12 (coursework/contact hours specific to needs of visually impaired students, across grades K-12)—instructional strategies; Braille code, teaching Braille reading (with proficiency as defined in LA state competencies); Nemeth code, teaching Braille mathematics; using slate and stylus.

4. Reading Requirements. Candidates completing an alternate certification program after May 1, 2004, are required to demonstrate proficiency in the reading competencies as adopted by BESE through one of the following options:

a. successfully complete same number of semester hours in reading as required for undergraduate teacher preparation programs:

i. early childhood PK-3 or elementary 1-5 programs—9 hours;

ii. middle grades 4-8 programs—6 hours;

iii. secondary 6-12 or all-level K-12 programs—3 hours;

iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired)—9 hours; or

b. pass a reading competency assessment;

c. the reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis—Teaching Reading exam (0204 or 5204). (Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.);

5. Internship or Student Teaching—6 hours, to include participant-oriented methodology seminars:

a. for all-level K-12 areas (art, dance, foreign language, health and physical education, and music), internship or student teaching experiences should be provided across grades K-12;

b. if the candidate has accumulated three years of successful teaching experience in an approved Louisiana school in the area(s) of certification, the private provider/university may substitute the three years of

successful teaching experience for the required internship or student teaching portion of the program. Experience accumulated by elementary education certification candidates must be in core content areas at appropriate grade levels.

6. Mentoring and support. Participants will receive content and/or pedagogy support during the school year through small group seminar meetings. The support will be provided by a master teacher who has experience teaching in the same or similar content area and grade level. The master teacher should focus on student achievement and instructional strategies with the program candidate. The master teacher can give the candidate one-on-one support and offer specific ways that the teacher can improve instruction techniques.

7. Total hours required in the program—27-33 credit hours or equivalent contact hours (405-495). Program requirements must be met within three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§739. The State as a Private Provider**

A. The LDE may act as a program provider in directing certification efforts of candidates who meet these criteria.

1. Candidate must accumulate three years of successful experience in an approved Louisiana school in the area(s) of certification, which experience can be used by the LDE in lieu of the internship or student teaching portion of the program. Experience accumulated by elementary education certification candidates must be in core content areas at appropriate grade levels.

2. Candidate must have experienced difficulty in completing alternate program requirements, through no fault of his/her own.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **Subchapter C. Teacher Preparation Programs: Adopted October 2016**

#### **§741. Introduction**

A. Effective January 1, 2017, for the purposes of program approval, teacher preparation programs shall meet the requirements described in this Subchapter.

B. Current approved preparation providers must demonstrate alignment of approved traditional and alternate programs to the program requirements described in this Subchapter and be approved by BESE before July 1, 2018.

C. After July 1, 2018, teacher candidates shall be admitted only to traditional and alternate teacher preparation programs that meet the requirements described in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education

#### **§743. Minimum Requirements for Traditional Teacher Preparation Programs**

A. A traditional teacher preparation program is a baccalaureate degree program that includes a minimum of 120 credit hours of coursework and required practice



experiences. A portion of the total hours must include the minimum number of credit hours in the teaching of reading and literacy as follows:

1. for certification in Birth-K, PK-3 and 1-5, general-special education mild/moderate 1-5—9 credit hours;
2. for certification in middle grades 4-8 or general-special education mild/moderate 4-8—6 credit hours;
3. for certification in secondary 6-12, all-level K-12, or general-special education mild/moderate 6-12 programs—3 credit hours; and
4. for special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired)—9 credit hours.

B. The program shall sequentially develop and assess teacher candidates' mastery of applicable Louisiana teacher preparation competencies codified in Bulletin 746 through a combination of general education, content area, and teaching coursework, assessments, and related practice experiences.

1. Traditional teacher preparation programs offered by public universities shall meet general education requirements established by the Board of Regents.

2. For the purposes of program approval, an academic major in the certification content area may serve as the basis for alignment to content knowledge competencies.

C. Programs shall include the following practice experiences, which directly align with and sequentially develop the competencies identified in Bulletin 746:

1. actual practice experiences shall be provided in classroom settings prior to the residency year; and

2. a one-year residency shall take place in a public or approved non-public school in a classroom in the certification area with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746. The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130:

a. beginning July 1, 2018, candidates must hold a valid resident teacher certificate in order to be placed in a one-year residency;

b. for certification in B-K, PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent of the residency school site's instructional time each week engaged in residency activities;

c. for certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities;

d. teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year;

3. the residency shall include a combination of the following experiences:

- a. instructional goal-setting and planning, including individual education plan (IEP) and individual accommodations plan (IAP) review and implementation;
- b. classroom teaching;
- c. analysis of student assessment results, including formative and summative assessment data, student work samples, and observations of student class discussions;
- d. parent-teacher conferences and communication; and
- e. interactions and collaboration with other teachers;

4. the teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team;

5. candidates may complete clinical experiences through general education or content courses that integrate content, pedagogy, and practice.

D. The preparation provider shall assess and document evidence of candidates' teaching competency for all candidates completing one-year residencies.

1. Assessments of teaching competency shall be jointly administered by the preparation provider and the residency school site principal or designee.

2. Assessments of teaching competency shall include, but not are not limited to, the following:

a. observations that occur during the residency year; and

b. measures of teacher candidates' impact on all students' learning, which may include student learning targets.

3. Upon completion of the program, a holistic evaluation of the teacher candidate's eligibility for initial licensure shall be made collaboratively by preparation provider faculty, the residency school site principal or designee, and mentor teacher.

E. To be admitted into a traditional teacher preparation program, candidates must meet the following requirements:

1. meet minimum GPA requirements of 2.50 or higher grade point average (GPA) on a 4.00 scale; and

2. pass the core academic skills for educators assessment or meet alternate requirements pursuant to Bulletin 746.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§745. Minimum Requirements for Alternate Teacher Preparation Programs**

A. An alternate teacher preparation program is a program that includes a minimum number of credit or contact hours of coursework or training and required practice experiences. There are three types of alternate teacher preparation programs.

1. The practitioner teacher program may be offered by state-approved colleges or universities and non-university

providers with an approved teacher education program in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), or integrated to merged approach for grades 1-5, grades 4-8 and grades 6-12:

a. total hours required in grades PK-3 program—24-33 credit hours (or equivalent 360-495 contact hours);

b. total hours required in grades 1-5, 4-8, 6-12, all-level (K-12) programs—21-30 credit hours (or equivalent 315-450 contact hours); and

c. total hours required in general-special education mild/moderate grades 1-5, grades 4-8, and grades 6-12 programs—27-33 credit hours (or equivalent 405-495 contact hours).

2. The master's degree program may be offered by state-approved colleges or universities with an approved teacher education program. Master's degree programs may offer certification in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, music), early interventionist birth to five years, general-special education mild-moderate: an integrated to merged approach for grades 1-5, grades 4-8, and grades 6-12:

a. total hours required in grades PK-3, grades 1-5, grades 4-8, grades 6-12, all-level K-12, early interventionist birth to five years programs—33-39 credit hours; and

b. total hours required in general-special education mild/moderate: an integrated to merged approach for grades 1-5, grades 4-8 and grades 6-12 programs—33-42 credit hours.

3. The certification-only program may be offered by state-approved providers with an approved teacher education program in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), early interventionist birth to five years, general-special education mild-moderate: an integrated to merged approach for grades 1-5, grades 4-8, and grades 6-12. Total hours required—27-33 credit hours or equivalent contact hours (405-495).

B. For all alternate teacher preparation programs, a portion of the total hours must include the minimum number of credit hours or equivalent contact hours in the teaching of reading and literacy as follows:

1. for certification in PK-3 and 1-5, general-special education mild/moderate 1-5—9 credit hours or 135 contact hours;

2. for certification in middle grades 4-8 or general-special education mild/moderate 4-8—6 credit hours or 90 contact hours;

3. for certification in secondary 6-12, all-level K-12, or general-special education mild/moderate 6-12 programs—3 credit hours or 45 contact hours; and

4. for special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired)—9 credit hours or 135 contact hours.

C. The program shall sequentially develop and assess teacher candidates' mastery of applicable Louisiana teacher preparation competencies codified in Bulletin 746 through a combination of coursework, assessments, and related practice experiences.

D. Programs shall include the following practice experiences, which directly align with and sequentially develop the competencies identified in Bulletin 746.

1. Clinical experiences shall be provided in classroom settings prior to the residency year as follows.

a. In all programs, a minimum of 9 credit hours or 135 contact hours of training and a minimum of 80 hours of actual practice experiences in classrooms is required prior to the residency.

2. A one-year residency shall take place in a public or approved non-public school in a classroom in the certification area. The residency shall include a combination of the following experiences:

a. instructional goal-setting and planning, including IEP and IAP review and implementation;

b. classroom teaching;

c. analysis of student assessment results, including formative and summative assessment data, student work samples, and observations of student class discussions;

d. parent-teacher conferences and communication; and

e. interactions and collaboration with other teachers.

3. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member.

a. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

4. Practitioner teacher programs shall require candidates to complete the residency as a teacher of record. Candidates must hold a valid practitioner teacher license pursuant to Bulletin 746.

5. Master's degree or certification-only alternate programs shall allow candidates to complete the residency as a teacher of record or in a classroom under a teacher of record:

a. candidates may complete the residency as a teacher of record and must hold a valid practitioner teacher license pursuant to Bulletin 746; or

b. candidates may complete the one-year residency in a classroom a public or approved non-public school in a classroom in the certification area with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746. The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130:

i. effective July 1, 2018, candidates must hold a valid Resident Teacher Certificate. The residency may include practice with other teachers in the public or approved non-public school setting;

ii. for certification in PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent

of the residency school site's instructional time each week engaged in residency activities; and

iii. for certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities;

iv. teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year.

E. The preparation provider shall assess and document evidence of candidates' teaching competency for all candidates completing one-year residencies.

1. Assessments of teaching competency shall be jointly administered by the preparation provider and the residency school site principal or designee.

2. Assessments of teaching competency shall include, but not are not limited to, the following:

a. observations that occur during the residency year; and

b. measures of teacher candidates' impact on all students' learning, which may include student learning targets.

3. Upon completion of the program, a holistic evaluation of the teacher candidate's eligibility for initial licensure shall be made collaboratively by preparation provider faculty, the residency school site principal or designee, and mentor teacher.

F. To be admitted into an alternate teacher preparation program, candidates must meet the following requirements:

1. possess a non-education baccalaureate degree from a regionally accredited university;

2. meet minimum GPA requirements. For admission into certification-only programs, the GPA may be calculated using the last 60 hours of coursework earned from a regionally accredited university:

a. 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a non-university program;

b. 2.20 or higher GPA on a 4.00 scale to enter a college or university program; and

3. pass the core academic skills for educators assessment and the required content examinations or meet alternate requirements pursuant to Bulletin 746. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **Subchapter D. Alternate Educational Leader Preparation Programs**

##### **§747. Educational Leader Practitioner (Residency) Program**

A. State-approved private providers and Louisiana colleges or universities may choose to offer an educational leader practitioner (residency) program for purposes of certifying successful candidates for educational leader level

1 certification. (Two additional alternate paths are available to individuals seeking an educational leader certificate level 1; see Bulletin 746, Chapter 7, §705 for path 1 and path 2.) Educational leader practitioner program providers must submit a program proposal to the Louisiana Department of Education. Programs will be reviewed for adherence to program guidelines, and those meeting guidelines will be recommended to BESE for approval status. The educational leader practitioner program is a streamlined certification path that combines intensive coursework and practical, on-the-job experience.

1. Admission to the Program. Program providers work with local educational agency or state/district-approved charter school personnel to identify educational leader practitioner program candidates who will be employed by the local educational agency or approved charter school (hereinafter referred to as hiring authority). For admission, candidates must:

a. possess a baccalaureate degree from an accredited university;

b. have three years of K-12 teaching experience and demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider in partnership with one or more hiring authorities;

c. hold or be eligible to hold a valid Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate;

d. meet other non-course requirements established by the approved leader practitioner program:

i. candidates will be chosen using a rigorous selection process designed to determine the potential of candidates as school leaders. The screening process for each cohort will involve a multi-phase process that includes, as a minimum, a written application, recommendations, and interviews.

##### **2. Leader Preparation (First Session)**

a. All leader practitioner candidates will participate in an initial institute training that will build skills in the areas of instructional, organizational, and personal leadership. The standards for educational leaders in Louisiana will serve as the basis of the curriculum. The institute will provide a balanced curriculum that includes learning opportunities grounded in practical experience, theory, and research. Topics to be addressed include but are not limited to the following: leading with a vision, using data to lead school improvement, creating and leading effective school teams, building a high-performance learning culture and professional learning communities, and leading and learning with technology. acquired knowledge and skills will be utilized in the planning of residency experiences with a residency supervisor, who is assigned by the program provider. In addition, participants will begin developing their portfolio and educational leadership development plan.

b. The initial session will include a minimum of 135 contact hours (or 9 credit hours).

##### **3. Principal Residency and Support (School Year)**

a. Candidates assume positions as administrative interns (with responsibilities equivalent to that of an Assistant Principal). The hiring authority pays the candidate's salary.

b. Interns will serve in at least two different schools, and will experience a full range of activities

associated with all phrases of school administration. In school experiences should provide for a minimum of 125 days in the school.

c. During the school year, candidates participate in weekly sessions provided by the program provider and in four seminars (two during the first semester and two during the second semester) that address immediate needs of the practitioner leader. Weekly sessions and seminars should provide for a minimum of 60 contact hours (or 4 credit hours).

d. Practitioner leaders receive one-on-one supervision through a residency supervisor provided by the program providers.

e. Practitioner leaders will receive support from a school-based principal mentor identified by the hiring authority and the program provider, and a principal coach provided by the program provider. Hiring authorities and providers will collaborate to identify appropriate site for placement of an intern at a school and with a strong principal who serves as the school-based mentor. Additionally, the provider identifies and trains principal coaches (e.g., former principals, retired principals) who support one or more candidates.

#### 4. Leader Preparation (Second Session)

a. All leader practitioner candidates will participate in a follow-up institute training that will continue to build skills in the areas of instructional and organizational leadership. The *Standards for Educational Leaders in Louisiana* will serve as the basis of the curriculum. The institute will provide a balanced curriculum that includes learning opportunities grounded in practical experience, theory, and research. Topics to be addressed include but are not limited to the following: leading a focused drive toward student achievement, organizing the learning environment, and ethical leadership. In addition, program participants will finalize their portfolio and educational leadership development plan.

b. The second session will include 135 contact hours (or 9 credit hours).

i. An approved program provider may choose to provide a portion of the second session curriculum and contact hours during the first session or academic school year.

ii. A minimum of 45 contact hours (or three credit hours) must be provided during the second session.

iii. The provider must provide evidence that the curriculum topics have all been addressed and that the required contact hours/credit hours have been met by the end of the second session.

#### 5. Practitioner Leader Performance Review (Mid-Year and End of Program)

a. Program providers, mentor principals, and principal coaches form teams to review mid-year performance of practitioner leaders and determine the extent to which the practitioner leader has demonstrated educational leadership proficiency. If weaknesses are cited, teams will identify additional types of support to address areas of needs.

b. Program providers, mentor principals, and principal coaches form teams to review end-of-program performance of practitioner leaders and determine the extent to which the aspiring leader has demonstrated educational

leadership proficiency and readiness for the educational leader level 1 certification.

6. Total Hours Required. Minimum of 330 contact hours of coursework (22 credit hours) and minimum of 125 days serving as practitioner leader (administrative intern).

7. Passage of School Licensure Exam. Have a passing score on the school leaders licensure assessment (SLLA) in accordance with state requirements.

8. Program requirements must be met by the end of the second session. For certification purposes, approved providers will submit signed statements to the Department of Education indicating that the student completing the Educational Leader Practitioner Program performance-based certification path met the following requirements:

a. passed the school leaders licensure assessment;

b. completed all program coursework (sessions and school year) and the residency;

c. completed prescriptive plans (if weaknesses were demonstrated);

d. demonstrate readiness for the educational leader based on performance against the standards for educational leaders in Louisiana and approved program provider indicators of skills needed for educational leader success;

e. completed an educational leadership development plan (an individualized learning plan that outlines areas of development in each of the standards for educational leaders in Louisiana);

f. completed a portfolio demonstrating skills needed to collaborate with teachers and use data to increase student achievement; successfully observe, evaluate, and provide feedback to teachers to improve student achievement; and lead the school or a portion of the school through a change process that helps to build a positive school community.

9. On-Going Support (second and third year). Program providers will give support services to educational leaders who have completed the practitioner leader program and are serving as school leaders during their second and third years in the program.

10. Professional License. Upon completion of all requirements of the program, the candidate will receive an educational leader level 1 license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, May 10, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be

dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be costs for the Department of Education (LDE), Local School Districts (Districts) and public Universities (Providers) to implement the proposed revisions relative to teacher preparation programs and certification requirements. Actual expenditure responsibilities for Districts and Providers will be determined in part by partnership agreements developed by those entities, which will likely vary in scope and responsibility. A Believe and Prepare Toolkit was developed in summer 2015 as the foundation for a work group study and included an administration and budget tool to provide examples of partnerships, and sample budgets, which included possible costs. The cost model provided as part of the toolkit, as well as expenditure projections submitted in fall 2016 from Providers and Districts, based on costs incurred during participation in the pilot, indicated annual costs could be \$7.5 M or more once the program has been fully implemented. The LDE did not estimate long term costs and identified only selected cost factors that were common across all or nearly all universities as essential to the transition, greatly reducing the cost projections. Ultimately, actual program costs are indeterminable at this time and will depend upon the number of participating resident teachers, participating schools, stipend amounts, the available resources of the Districts and Providers and the parameters of the partnership agreements. The LDE will provide transitional funding totaling \$7.3 M for the period FY16/17 through FY18/19. Beginning in FY19/20, the LDE proposes to reallocate \$2.2 M in federal funds to offset program costs for Providers. Districts and Providers will be required to either reallocate existing funds or identify new funding sources for any costs incurred in excess of this amount. Furthermore, none of the funding proposals address any costs that may be associated with teacher candidates in alternative certification programs.

For the past three years, an average of 1,250 graduates have completed the traditional teacher training program and an additional 1,350 have completed an alternative certification program. Since 2013 the LDE has provided approximately \$4.9 M, utilizing a mix of federal and state funds to support a pilot aimed at developing partnerships between Districts and Providers to create practice based teacher preparation programs. The proposed rule creates a competency based teacher certification structure which includes a requirement, beginning in July 2018, that all traditional teacher candidates serve a one-year residency in a classroom with a teacher of record (mentor teacher) who holds a valid teaching certificate. In order to obtain BESE approval, preparation programs must offer a program in which residents spend a minimum of 60% to 80% of instructional time engaged in resident activities, depending upon the area of certification. Providers may also seek BESE approval to operate an innovative model in which residents spend less time engaged in resident activities but meet critical workforce needs. A team comprised of a school-based mentor teacher, the residency school site principal, or designee,

and a Provider program faculty member shall supervise teacher candidates. The supervision shall contain at least two formal observations of teaching practice each semester. Although compensation is not specifically required in the proposed rule, the LDE proposes compensating some teacher mentors with a minimum stipend of \$1,000 and resident teachers with a stipend of \$2,000 annually.

For the period FY16/17 through FY18/19, the LDE proposes utilizing \$7.3 M from federal funds (Title I, IDEA, Title II), state funds (8g), and the Teacher Incentive Fund grant to provide for the design and implementation of the new structure and the teacher residency requirements. This includes funding for full time and part time program Transition Coordinators at 14 public (and four private) universities, mentor teacher stipends, teacher resident stipends, mentor training, and Provider support, as well as a high cost needs pool for ancillary costs incurred by all participants. For FY19/20 and beyond, the LDE proposes utilizing existing Title I and Title II state set-asides of \$2.2 M for mentor stipends, university coordination costs and statewide training. Districts which choose to pay resident stipends may utilize federal funds and other funding sources. Allowing teacher residents to substitute teach could also offset the cost of resident stipends. Additionally, the LDE will support implementation costs by utilizing a portion of the recently awarded Teacher Incentive Fund federal grant to provide funds to six selected Providers and 16 participating rural school districts for the period FY16/17 through FY20/21 (approximately \$4 M annually for the first three years).

Generally, local school districts will experience an increase in expenditures associated with the administration of the program, which may include coordination between the Districts and the Providers, costs associated with mentor teacher training and related professional development activities (travel and substitute pay) and resident stipends. Additionally, Partnership agreements may provide for the cost of mentor stipends to be paid by Districts. The extent of the costs will vary by district and will be determined by the size of the district, the number of mentor teachers required annually, and the extent to which district schools serve as sites for resident teachers, as well as actual stipend amounts. The funding provided by the LDE, combined with Districts' resources, may be sufficient to accommodate these expenses for those districts with greater resources, or which have a lower teacher resident placement rate. However, this will not be true for all Districts, some of which will need to identify additional funding or reallocate existing funding to support these activities.

University providers will also experience costs related to the new teacher preparation and certification structure. While clinical, classroom instruction is currently a requirement for students in traditional teacher preparation programs, the proposed rule extends this from a single semester to a full year. Universities will see an increase in staffing and administrative needs, travel, and other related expenses, although program redesign may result in some cost efficiencies or savings in future years. Curriculum and program redesign will be supported through transitional funding provided by the LDE for the first three years. However, the extent to which these and other costs continue in the future and can be supported by the Providers will depend upon the number of students enrolled in teacher education programs at individual public universities, the number of degree programs impacted, and the existing staffing and resources available at each institution.

There may be long term cost savings for Districts which participate in the redesigned preparation program. Teacher residency programs are relatively new and few studies exist on

the effectiveness of these programs compared to non-residency teacher preparation. However, numerous studies have been conducted on the impact of mentoring and induction programs on teacher retention and effectiveness of first year teachers. These studies indicate that a wide range of working conditions impact a teacher's decision to stay in the profession. A longitudinal study on public school teacher attrition conducted by the US Department of Education's National Center for Educational Statistics indicates competitive salaries and high quality mentors make a difference in keeping teachers and reducing costs associated with attrition. To the extent participation in this program impacts Districts, particularly those with high attrition experience, long term cost benefits could help to offset program costs; however, the net impact is indeterminable.

## II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact to revenue collections of Districts or Providers, however, reallocation of existing funding and available resources may be required to address costs not supported by funding from the LDE.

## III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Non-public University Providers and Alternative Providers (non Institutions of Higher Education), which offer teacher education programs may experience an indeterminable increase in costs similar to those of public universities for program redesign, administration and implementation. Non-public schools and public charter schools, which choose to participate in the teacher residency program may incur costs similar to those of traditional public schools. The extent of these impacts will depend upon the level of participation in this initiative.

## IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be an indeterminable impact on competition and employment. Districts and Providers have not yet developed new program parameters and guidelines based on the proposed rule change. At this time, it is not clear what the final process will be used to determine resident teacher placement in local schools. The LDE funding projections do not include stipends for mentor teachers of candidates seeking alternative certification. Districts with sufficient resources may offer stipends to these mentor teachers, as well as stipends in amounts higher or lower than those proposed by the LDE for traditional teacher candidates and their mentors. This could impact both mentor teachers' selection of schools for employment and resident teachers' selection of schools for student teaching. Additionally, some students work at part-time or full-time jobs while completing college coursework and stipends may not provide a sufficient level of funding to offset this income loss. Conversely, students seeking alternative certification may be employed as a full time teacher for a period up to three years while they seek certification. This could serve to increase the number of students seeking alternative certification, rather than enrollment in a traditional teacher preparation programs. Finally, the use of mentor teachers and other supports provided to both traditional teacher candidates and those seeking alternative certification could result in a reduction in teacher attrition and a more stable teacher workforce over the long term.

Beth Scioneaux  
Deputy Superintendent  
1704#063

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1962—Louisiana Science Content Standards (LAC 28:CXXIII.Chapter 1-35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1962—Louisiana Science Content Standards*: §101. Introduction; §103. Need and Context for Reform; §105. Purpose of the Framework; §107. Intended Audiences; §109. Intended Use; §111. Louisiana Content Standards Foundation Skills; §113. Information Literacy Model for Lifelong Learning; §301. Motion and Stability: Forces and Interactions; §303. Energy; §305. From Molecules to Organisms: Structure and Processes; §307. Earth's System; §309. Earth and Human Activity; §311. Science and Equity; §501. Waves and Their Applications; §503. From Molecules to Organisms: Structures and Processes; §505. Heredity: Inheritance and Variation of Traits; §507. Earth's Place in the Universe; §701. Matter and Its Interactions; §703. Ecosystems: Interactions, Energy, and Dynamics; §705. Biological Evolution: Unity and Diversity; §707. Earth's Place in the Universe; §709. Earth's Systems; §901. Motion and Stability: Forces and Interactions; §903. From Molecules to Organisms: Structures and Processes; §905. Ecosystems: Interactions, Energy, and Dynamics; §907. Heredity: Inheritance and Variation of Traits; §909. Biological Evolution: Unity and Diversity; §911. Earth's Systems; §913. Earth and Human Activity; §1101. Energy; §1103. Waves and Their Applications in Technologies for Information Transfer; §1105. From Molecules to Organisms: Structure and Processes; §1107. Earth's Place in the Universe; §1109. Earth's System; §1111. Earth and Human Activity; §1301. Matter and its Interactions; §1303. Motion and Stability: Forces and Interactions; §1305. Matter and Energy in Organisms and Ecosystems; §1307. From Molecules to Organisms: Structures and Processes; §1309. Ecosystems; §1311. Earth's Place in the Universe; §1313. Earth's Systems; §1315. Earth and Human Activity; §1501. Matter and its Interactions; §1503. Motion and Stability: Forces and Interactions; §1505. Energy; §1507. Earth's Place in the Universe; §1509. Earth and Human Activity; §1511. From Molecules to Organisms: Structures and Processes; §1513. Ecosystems: Interactions, Energy, and Dynamics; §1701. Matter and its Interactions; §1703. Energy; §1705. Earth's Systems; §1707. Earth and Human Activity; §1709. From Molecules to Organisms: Structures and Processes; §1711. Ecosystems: Interactions, Energy, and Dynamics; §1713. Heredity: Inheritance and Variation of Traits; §1715. Biological Evolution: Unity and Diversity; §1901. Matter and Its Interactions; §1903. Energy; §1905. Earth's Place in the Universe; §1907. Earth's Systems; §1909. Earth and Human Activity; §1911. From Molecules to Organisms: Structures and Processes; §1913. Heredity: Inheritance and Variation of Traits; §1915. Biological Evolution: Unity and Diversity; §1917. Grade 5; §1919. Grade 6; §1921. Grade 7; §1923. Grade 8; §1925. High School: Grades 9-12; §1927. Physical Science (Recommended for Grade 9); §1929. Biology (Recommended for Grade 10); §1931. Earth Science

(Recommended for Grades 11/12); §1933. Environmental Science (Recommended for Grades 11/12); §1935. Chemistry (Recommended for Grades 11/12); §1937. Physics (Recommended for Grades 11/12); §2101. Resources and Resource Management; §2103. Environmental Awareness and Protection; §2105. Personal Responsibilities; §2107. Earth's Systems; §2109. Human Sustainability; §2111. Ecosystems: Interactions, Energy and Dynamics; §2301. From Molecules to Organisms: Structures and Processes; §2303. Ecosystems: Interactions, Energy and Dynamics; §2305. Heredity: Inheritance and Variation of Traits; §2307. Biological Evolution: Unity and Diversity; §2501. Earth's Place in the Universe; §2503. Space Systems; §2505. History of Earth; §2507. Earth's Systems; §2509. Human Sustainability; §2701. Matter and Its Interactions; §2703. Motion and Stability: Forces and Interactions; §2705. Energy; §2707. Waves and Their Applications; §2901. Matter and Its Interactions; §2903. Motion and Stability: Forces and Interactions; §2905. Energy; §3101. Motion and Stability: Forces and Interactions; §3103. Energy; and §3105. Waves and Their Applications in Technologies for Information Transfer.

Louisiana state law RS 17:24.4 requires BESE to adopt academic content standards, which are defined in the law as statements that define what a student should know or be able to accomplish at the end of a specific time period, grade level or at the completion of a course. Current BESE policy states that "The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning." In accordance with state law and BESE directives, the Louisiana Department of Education (LDE) supported a science standards review process, as Louisiana science standards were last updated in 1997 and grade level expectations (GLEs) based on those standards were written in 2005. The review process was led by content experts, elementary and secondary educators, postsecondary education leaders, and business and industry leaders. The review process also included extensive participation by parents of Louisiana school students and the general public. The proposed Louisiana Student Standards for Science represent the knowledge and skills needed for students to successfully transition to postsecondary education and the workplace.

#### Title 28

#### EDUCATION

#### Part CXXIII. Bulletin 1962—Louisiana Science Content Standards

#### Chapter 1. Introduction

#### §101. Introduction

A. The Louisiana student standards define what a public school student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. They represent the knowledge and skills needed for students to successfully transition from each grade and ultimately to postsecondary education and the workplace, as determined by content experts, elementary and secondary educators and school leaders, postsecondary education leaders, and business and industry leaders. The standards set forth what learning should be taught; local education agencies, their school leaders and classroom educators should determine how the standards should be taught, including the curricula and instructional materials

that should be used to meet students' individual needs in mastering the standards.

B. R.S. 17:285.1, known as the "Science Education Act," requires the State Board of Elementary and Secondary Education, upon request of a city, parish, or other local public school board, to allow and assist teachers, principals, and other school administrators to create and foster an environment within public elementary and secondary schools that promotes critical thinking skills, logical analysis, and open and objective discussion of scientific theories being studied including, but not limited to, evolution, the origins of life, global warming, and human cloning. Such assistance shall include support and guidance for teachers regarding effective ways to help students understand, analyze, critique, and objectively review scientific theories being studied. A teacher shall teach the Louisiana State Standards using the standard textbook and/or instructional materials supplied by the school system and thereafter may use supplemental textbooks and other instructional materials to help students understand, analyze, critique, and review scientific theories in an objective manner, as permitted by the city, parish, or other local public school board unless otherwise prohibited by the State Board of Elementary and Secondary Education. This law shall not be construed to promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or nonreligion. Refer to *Bulletin 741—Louisiana Handbook for School Administrators*, §2304, Science Education, for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§103. Need and Context for Reform**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2767 (November 2005), repealed LR 43:

### **§105. Purpose of the Framework**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2767 (November 2005), repealed LR 43:

### **§107. Intended Audiences**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2767 (November 2005), repealed LR 43:

### **§109. Intended Use**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2768 (November 2005), repealed LR 43:

### **§111. Louisiana Content Standards Foundation Skills**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2768 (November 2005), repealed LR 43:

### **§113. Information Literacy Model for Lifelong Learning**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2768 (November 2005), repealed LR 43:

## **Chapter 3. Kindergarten**

### **§301. Motion and Stability: Forces and Interactions**

A. Plan and conduct an investigation to compare the effects of different strengths or different directions of pushes and pulls on the motion of an object.

B. Analyze data to determine if a design solution works as intended to change the speed or direction of an object with a push or pull.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§303. Energy**

A. Make observations to determine the effect of sunlight on Earth's surface.

B. Use tools and materials to design and build a structure that will reduce the warming effect of sunlight on an area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§305. From Molecules to Organisms: Structure and Processes**

A. Use observations to describe patterns of what plants and animals (including humans) need to survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§307. Earth's System**

A. Use and share observations of local weather conditions to describe patterns over time.

B. Construct an argument supported by evidence for how plants and animals (including humans) can change the environment to meet their needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§309. Earth and Human Activity**

A. Use a model to represent the relationship between the needs of different plants or animals (including humans) and the places they live.

B. Ask questions to obtain information about the purpose of weather forecasting to prepare for and respond to severe weather.



C. Communicate solutions that will reduce the impact of humans on the land, water, air, and/or other living things in the local environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§311. Science and Equity**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2770 (November 2005), repealed LR 43:

## **Chapter 5. Grade 1**

### **§501. Waves and Their Applications**

A. Plan and conduct investigations to provide evidence that vibrating materials can make sound and that sound can make materials vibrate.

B. Make observations to construct an evidence-based account that objects can be seen only when illuminated.

C. Plan and conduct an investigation to determine the effect of placing objects made with different materials in the path of a beam of light.

D. Use tools and materials to design and build a device that uses light or sound to solve the problem of communicating over a distance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§503. From Molecules to Organisms: Structures and Processes**

A. Use tools and materials to design a solution to a human problem by mimicking how plants and/or animals use their external parts to help them survive, grow, and meet their needs.

B. Read grade-appropriate texts and use media to determine patterns in behavior of parents and offspring that help offspring survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§505. Heredity: Inheritance and Variation of Traits**

A. Make observations to construct an evidence-based account that young plants and animals are similar, but not exactly like, their parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§507. Earth's Place in the Universe**

A. Use observations of the sun, moon, and stars to describe patterns that can be predicted.

B. Make observations at different times of year to relate the amount of daylight to the time of year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 7. Grade 2**

### **§701. Matter and Its Interactions**

A. Plan and conduct an investigation to describe and classify different kinds of materials by their observable properties.

B. Analyze data obtained from testing different materials to determine which materials have the properties that are best suited for an intended purpose.

C. Make observations to construct an evidence-based account of how an object made of a small set of pieces can be disassembled and made into a new object.

D. Construct an argument with evidence that some changes caused by heating or cooling can be reversed and some cannot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§703. Ecosystems: Interactions, Energy, and Dynamics**

A. Plan and conduct an investigation to determine if plants need sunlight and water to grow.

B. Develop a simple model that mimics the function of an animal in dispersing seeds or pollinating plants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§705. Biological Evolution: Unity and Diversity**

A. Make observations of plants and animals to compare the diversity of life in different habitats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§707. Earth's Place in the Universe**

A. Use information from several sources to provide evidence that Earth events can occur quickly or slowly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§709. Earth's Systems**

A. Compare multiple solutions designed to slow or prevent wind or water from changing the shape of the land.

B. Develop a model to represent the shapes and kinds of land and bodies of water in an area.

C. Obtain and communicate information to identify where water is found on Earth and that it can be solid or liquid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 9. Grade 3**

### **§901. Motion and Stability: Forces and Interactions**

A. Plan and conduct an investigation to provide evidence of the effects of balanced and unbalanced forces on the motion of an object.

B. Make observations and/or measurements of an object's motion to provide evidence that a pattern can be used to predict future motion.

C. Ask questions to determine cause and effect relationships of electric or magnetic interactions between two objects not in contact with each other.

D. Define a simple design problem that can be solved by applying scientific ideas about magnets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§903. From Molecules to Organisms: Structures and Processes**

A. Develop models to describe that organisms have unique and diverse life cycles but all have in common birth, growth, reproduction, and death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§905. Ecosystems: Interactions, Energy, and Dynamics**

A. Construct and support an argument that some animals form groups that help members survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§907. Heredity: Inheritance and Variation of Traits**

A. Analyze and interpret data to provide evidence that plants and animals have traits inherited from their parents and that variation of these traits exists in a group of similar organisms.

B. Use evidence to support the explanation that traits can be influenced by the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§909. Biological Evolution: Unity and Diversity**

A. Analyze and interpret data from fossils to provide evidence of the organisms and the environments in which they lived long ago.

B. Use evidence to construct an explanation for how the variations in characteristics among individuals of the same species may provide advantages in surviving, finding mates, and reproducing.

C. Construct and support an argument with evidence that in a particular habitat some organisms can survive well, some survive less well, and some cannot survive at all.

D. Make a claim about the merit of a solution to a problem caused when the environment changes and the types of plants and animals that live there may change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§911. Earth's Systems**

A. Represent data in tables and graphical displays to describe typical weather conditions expected during a particular season.

B. Obtain and combine information to describe climates in different regions around the world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§913. Earth and Human Activity**

A. Make a claim about the merit of a design solution that reduces the impact of a weather-related hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 11. Grade 4**

### **§1101. Energy**

A. Use evidence to construct an explanation relating the speed of an object to the energy of that object.

B. Make observations to provide evidence that energy can be transferred from place to place by sound, light, heat, and electric currents.

C. Ask questions and predict outcomes about the changes in energy that occur when objects collide.

D. Apply scientific ideas to design, test, and refine a device that converts energy from one form to another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1103. Waves and Their Applications in Technologies for Information Transfer**

A. Develop a model of waves to describe patterns in terms of amplitude and wavelength and to show that waves can cause objects to move.

B. Develop a model to describe that light reflecting from objects and entering the eye allows objects to be seen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1105. From Molecules to Organisms: Structure and Processes**

A. Construct an argument that plants and animals have internal and external structures that function to support survival, growth, behavior, and reproduction.

B. Construct an explanation to describe how animals receive different types of information through their senses, process the information in their brains, and respond to the information in different ways.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1107. Earth's Place in the Universe**

A. Identify evidence from patterns in rock formations and fossils in rock layers to support an explanation for changes in landforms over time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1109. Earth's System**

A. Plan and conduct investigations on the effects of water, ice, wind, and vegetation on the relative rate of weathering and erosion.

B. Analyze and interpret data from maps to describe patterns of Earth's features.

C. Ask questions that can be investigated and predict reasonable outcomes about how living things affect the physical characteristics of their environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1111. Earth and Human Activity**

A. Obtain and combine information to describe that energy and fuels are derived from renewable and non-renewable resources and how their uses affect the environment.

B. Generate and compare multiple solutions to reduce the impacts of natural Earth processes on humans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 13. Grade 5**

### **§1301. Matter and its Interactions**

A. Develop a model to describe that matter is made of particles too small to be seen.

B. Measure and graph quantities to provide evidence that regardless of the type of change that occurs when heating, cooling, or mixing substances, the total amount of matter is conserved.

C. Make observations and measurements to identify materials based on their properties.

D. Conduct an investigation to determine whether the mixing of two or more substances results in new substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1303. Motion and Stability: Forces and Interactions**

A. Support an argument that the gravitational force exerted by the Earth is directed down.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1305. Matter and Energy in Organisms and Ecosystems**

A. Use models to describe that energy in animals' food (used for body repair, growth, motion, and to maintain body warmth) was once energy from the sun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1307. From Molecules to Organisms: Structures and Processes**

A. Ask questions about how air and water affect the growth of plants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1309. Ecosystems**

A. Develop a model to describe the movement of matter among plants, animals, decomposers, and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1311. Earth's Place in the Universe**

A. Support an argument that differences in the apparent brightness of the sun compared to other stars is due to their relative distances from the Earth.

B. Represent data in graphical displays to reveal patterns of daily changes in length and direction of shadows, day and night, and the seasonal appearance of some stars in the night sky.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1313. Earth's Systems**

A. Develop a model using an example to describe ways the geosphere, biosphere, hydrosphere, and/or atmosphere interact.

B. Describe and graph the amounts and percentages of water and fresh water in various reservoirs to provide evidence about the distribution of water on Earth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1315. Earth and Human Activity**

A. Generate and compare multiple solutions about ways individual communities can use science to protect the Earth's resources and environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 15. Grade 6**

### **§1501. Matter and its Interactions**

A. Develop models to describe the atomic composition of simple molecules and extended structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1503. Motion and Stability: Forces and Interactions**

A. Apply Newton's Third Law to design a solution to a problem involving the motion of two colliding objects.

B. Plan an investigation to provide evidence that the change in an object's motion depends on the sum of the forces on the object and the mass of the object.

C. Ask questions about data to determine the factors that affect the strength of electric and magnetic forces.

D. Construct and present arguments using evidence to support the claim that gravitational interactions are attractive and depend on the masses of interacting objects.

E. Conduct an investigation and evaluate the experimental design to provide evidence that fields exist between objects exerting forces on each other even though the objects are not in contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§1505. Energy**

A. Construct and interpret graphical displays of data to describe the relationships of kinetic energy to the mass of an object and to the speed of an object.

B. Develop a model to describe that when the arrangement of objects interacting at a distance changes, different amounts of potential energy are stored in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1505. Waves and Their Applications in Technologies for Information Transfer**

A. Use mathematical representations to describe a simple model for waves that includes how the amplitude of a wave is related to the energy in a wave and how the frequency and wavelength change the expression of the wave.

B. Develop and use a model to describe that waves are refracted, reflected, absorbed, transmitted, or scattered through various materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1507. Earth's Place in the Universe**

A. Develop and use a model of the Earth-sun-moon system to describe the reoccurring patterns of lunar phases, eclipses of the sun and moon, and seasons.

B. Use a model to describe the role of gravity in the motions within galaxies and the solar system.

C. Analyze and interpret data to determine scale properties of objects in the solar system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1509. Earth and Human Activity**

A. Construct an argument supported by evidence for how increases in human population and per-capita consumption of natural resources impact Earth's systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1511. From Molecules to Organisms: Structures and Processes**

A. Conduct an investigation to provide evidence that living things are made of cells, either one or many different numbers and types.

B. Develop and use a model to describe the function of a cell as a whole and ways parts of cells contribute to the function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1513. Ecosystems: Interactions, Energy, and Dynamics**

A. Analyze and interpret data to provide evidence for the effects of resource availability on organisms and populations of organisms in an ecosystem.

B. Construct an explanation that predicts patterns of interactions among organisms across multiple ecosystems.

C. Develop a model to describe the cycling of matter and flow of energy among living and nonliving parts of an ecosystem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **Chapter 17. Grade 7**

#### **§1701. Matter and its Interactions**

A. Analyze and interpret data on the properties of substances before and after the substances interact to determine if a chemical reaction has occurred.

B. Develop a model that predicts and describes changes in particle motion, temperature, and the state of a pure substance when thermal energy is added or removed.

C. Develop and use a model to describe how the total number of atoms does not change in a chemical reaction and thus mass is conserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1703. Energy**

A. Plan an investigation to determine the relationships among the energy transferred, the type of matter, the mass, and the change in the average kinetic energy of the particles as measured by the temperature of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1705. Earth's Systems**

A. Develop a model to describe the cycling of water through Earth's systems driven by energy from the sun and the force of gravity.

B. Collect data to provide evidence for how the motions and complex interaction of air masses results in changes in weather conditions.

C. Develop and use a model to describe how unequal heating and rotation of the Earth causes patterns of atmospheric and oceanic circulation that determine regional climates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1707. Earth and Human Activity**

A. Ask questions to clarify evidence of the factors that have caused the rise in global temperatures over the past century.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1709. From Molecules to Organisms: Structures and Processes**

A. Use an argument supported by evidence for how the body is a system of interacting subsystems composed of groups of cells.

B. Construct a scientific explanation based on evidence for the role of photosynthesis and cellular respiration in the cycling of matter and flow of energy into and out of organisms.

C. Develop a model to describe how food is rearranged through chemical reactions forming new molecules that support growth and/or release energy as this matter moves through an organism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1711. Ecosystems: Interactions, Energy, and Dynamics**

A. Construct an argument supported by empirical evidence that changes to physical or biological components of an ecosystem affect populations.

B. Undertake a design project that assists in maintaining diversity and ecosystem services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1713. Heredity: Inheritance and Variation of Traits**

A. Develop and use a model to describe why asexual reproduction results in offspring with identical genetic information and sexual reproduction results in offspring with genetic variation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1715. Biological Evolution: Unity and Diversity**

A. Construct an explanation based on evidence that describes how genetic variations of traits in a population increase some individuals' probability of surviving and reproducing in a specific environment.

B. Gather, read, and synthesize information about technologies that have changed the way humans influence the inheritance of desired traits in organisms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**Chapter 19. Grade 8**

**§1901. Matter and Its Interactions**

A. Develop models to describe the atomic composition of simple molecules and extended structures.

B. Gather and make sense of information to describe that synthetic materials come from natural resources and impact society.

C. Undertake a design project to construct, test, and modify a device that either releases or absorbs thermal energy by chemical processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1903. Energy**

A. Apply scientific principles to design, construct, and test a device that either minimizes or maximizes thermal energy transfer.

B. Construct, use, and present arguments to support the claim that when the kinetic energy of an object changes, energy is transferred to or from the object.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1905. Earth's Place in the Universe**

A. Construct a scientific explanation based on evidence from rock strata for how the geologic time scale is used to organize Earth's geologic history.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1907. Earth's Systems**

A. Develop a model to describe the cycling of Earth's materials and the flow of energy that drives this process.

B. Construct an explanation based on evidence for how geoscience processes have changed Earth's surface at varying time and spatial scales.

C. Analyze and interpret data on the distribution of fossils and rocks, continental shapes, and seafloor structures to provide evidence of the past plate motions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1909. Earth and Human Activity**

A. Construct a scientific explanation based on evidence for how the uneven distributions of Earth's mineral, energy, and groundwater resources are the result of past and current geoscience processes.

B. Analyze and interpret data on natural hazards to forecast future catastrophic events and inform the development of technologies to mitigate their effects.

C. Apply scientific principles to design a method for monitoring and minimizing human impact on the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1911. From Molecules to Organisms: Structures and Processes**

A. Construct and use argument(s) based on empirical evidence and scientific reasoning to support an explanation for how characteristic animal behaviors and specialized plant structures affect the probability of survival and successful reproduction of animals and plants respectively.

B. Construct a scientific explanation based on evidence for how environmental and genetic factors influence the growth of organisms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1913. Heredity: Inheritance and Variation of Traits**

A. Develop and use a model to describe why structural changes to genes (mutations) located on chromosomes may affect proteins and may result in harmful, beneficial, or neutral effects to the structure and function of the organism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§1915. Biological Evolution: Unity and Diversity**

A. Analyze and interpret data for patterns in the fossil record that document the existence, diversity, extinction, and change of life forms throughout the history of life on Earth under the assumption that natural laws operate today as in the past.

B. Apply scientific ideas to construct an explanation for the anatomical similarities and differences among modern organisms and between modern and fossil organisms to infer evolutionary relationships.

C. Analyze displays of pictorial data to compare patterns of similarities in the embryological development across multiple species to identify relationships not evident in the fully formed anatomy.

D. Use mathematical representations to support explanations of how natural selection may lead to increases and decreases of specific traits in populations of species over time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§1917. Grade 5**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2790 (November 2005), repealed LR 43:

#### **§1919. Grade 6**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2791 (November 2005), repealed LR 43:

#### **§1921. Grade 7**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2792 (November 2005), repealed LR 43:

#### **§1923. Grade 8**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2793 (November 2005), repealed LR 43:

#### **§1925. High School: Grades 9-12**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2795 (November 2005), repealed LR 43:

#### **§1927. Physical Science (Recommended for Grade 9)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2795 (November 2005), repealed LR 43:

#### **§1929. Biology (Recommended for Grade 10)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2796 (November 2005), repealed LR 43:

#### **§1931. Earth Science (Recommended for Grades 11/12)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2797 (November 2005), repealed LR 43:

#### **§1933. Environmental Science (Recommended for Grades 11/12)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2798 (November 2005), repealed LR 43:

#### **§1935. Chemistry (Recommended for Grades 11/12)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2799 (November 2005), repealed LR 43:

#### **§1937. Physics (Recommended for Grades 11/12)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2800 (November 2005), repealed LR 43:

### **Chapter 21. Environmental Science**

#### **§2101. Resources and Resource Management**

A. Analyze and interpret data to identify the factors that affect sustainable development and natural resource management in Louisiana.

B. Obtain, evaluate and communicate information on the effectiveness of management or conservation practices for one of Louisiana's natural resources with respect to common considerations such as social, economic, technological, and influencing political factors over the past 50 years.

C. Analyze and interpret data about the consequences of environmental decisions to determine the risk-benefit values of actions and practices implemented for selected issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§2103. Environmental Awareness and Protection**

A. Design and evaluate a solution to limit the introduction of non-point source pollution into state waterways.

B. Use a model to predict the effects that pollution as a limiting factor has on an organism's population density.

C. Use multiple lines of evidence to construct an argument addressing the negative impacts that introduced organisms have on Louisiana's native species.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§2105. Personal Responsibilities**

A. Construct and evaluate arguments about the positive and negative consequences of using disposable resources versus reusable resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **§2107. Earth's Systems**

A. Analyze geoscience data to make the claim that one change to Earth's surface can create feedbacks that cause changes to other Earth's systems.

B. Analyze and interpret data to explore how variations in the flow of energy into and out of Earth's systems result in changes in atmosphere and climate.

C. Plan and conduct an investigation on the properties of water and its effects on Earth materials and surface processes.

D. Develop a quantitative model to describe the cycling of carbon among the hydrosphere, atmosphere, geosphere, and biosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **§2109. Human Sustainability**

A. Construct an explanation based on evidence for how the availability of natural resources, occurrence of natural hazards, and changes in climate have influenced human activity.

B. Evaluate competing design solutions for developing, managing, and utilizing energy and mineral resources based on cost-benefit ratios.

C. Create a computational simulation to illustrate the relationships among management of natural resources, the sustainability of human populations, and biodiversity.

D. Evaluate or refine a technological solution that reduces impacts of human activities on natural systems.

E. Use a computational representation to illustrate the relationships among Earth systems and how those relationships are being modified due to human activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **§2111. Ecosystems: Interactions, Energy and Dynamics**

A. Use mathematical and/or computational representations to support explanations of factors that affect carrying capacity, biodiversity and populations of ecosystems at different scales.

B. Use mathematical representations to support claims for the cycling of matter and flow of energy among organisms in an ecosystem.

C. Evaluate the claims, evidence and reasoning that the complex interactions in ecosystems maintain relatively consistent numbers and types of organisms in stable conditions, but changing conditions may result in a new ecosystem.

D. Design, evaluate, and refine a solution for reducing the impacts of human activities on the environment and biodiversity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 23. Life Science**

### **§2301. From Molecules to Organisms: Structures and Processes**

A. Construct an explanation based on evidence for how the structure of DNA determines the structure of proteins

which carry out the essential functions of life through systems of specialized cells.

B. Develop and use a model to illustrate the hierarchical organization of interacting systems that provide specific functions within multicellular organisms.

C. Plan and conduct an investigation to provide evidence that feedback mechanisms maintain homeostasis in living organisms.

D. Use a model to illustrate the role of the cell cycle and differentiation in producing and maintaining complex organisms.

E. Use a model to illustrate how photosynthesis transforms light energy into stored chemical energy.

F. Construct and revise an explanation based on evidence for how carbon, hydrogen, and oxygen from sugar molecules may combine with other elements to form amino acids and/or other large carbon-based molecules.

G. Use a model to illustrate that cellular respiration is a chemical process whereby the bonds of food molecules and oxygen molecules are broken and the bonds in new compounds are formed, resulting in a net transfer of energy.

H. Obtain, evaluate, and communicate information about:

1. viral and bacterial reproduction and adaptation;
2. the body's primary defenses against infection, and
3. how these features impact the design of effective treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2303. Ecosystems: Interactions, Energy and Dynamics**

A. Use mathematical and/or computational representations to support explanations of factors that affect carrying capacity, biodiversity and populations of ecosystems at different scales.

B. Use mathematical representations to support claims for the cycling of matter and flow of energy among organisms in an ecosystem.

C. Evaluate the claims, evidence and reasoning that the complex interactions in ecosystems maintain relatively consistent numbers and types of organisms in stable conditions, but changing conditions may result in a new ecosystem.

D. Design, evaluate, and refine a solution for reducing the impacts of human activities on the environment and biodiversity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2305. Heredity: Inheritance and Variation of Traits**

A. Formulate, refine, and evaluate questions to clarify relationships about the role of DNA and chromosomes in coding the instructions for characteristic traits passed from parents to offspring.

B. Make and defend a claim based on evidence that inheritable genetic variations may result from:

1. new genetic combinations through meiosis;
2. viable errors occurring during replication; and/or
3. mutations caused by environmental factors.

C. Apply concepts of statistics and probability to explain the variation and distribution of expressed traits in a population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§2307. Biological Evolution: Unity and Diversity**

A. Analyze and interpret scientific information that common ancestry and biological evolution are supported by multiple lines of empirical evidence.

B. Construct an explanation based on evidence that biological diversity is influenced by:

1. the potential for a species to increase in number;
2. the heritable genetic variation of individuals in a species due to mutation and sexual reproduction;
3. competition for limited resources; and
4. the proliferation of those organisms that are better able to survive and reproduce in the environment.

C. Apply concepts of statistics and probability to support explanations that populations of organisms adapt when an advantageous heritable trait increases in proportion to organisms lacking this trait.

D. Construct an explanation based on evidence for how natural selection and other mechanisms lead to genetic changes in populations.

E. Evaluate evidence supporting claims that changes in environmental conditions can affect the distribution of traits in a population causing:

1. increases in the number of individuals of some species;
2. the emergence of new species over time; and
3. the extinction of other species.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **Chapter 25. Earth and Space**

#### **§2501. Earth's Place in the Universe**

A. Develop a model based on evidence to illustrate the life span of the sun and the role of nuclear fusion in the sun's core to release energy that eventually reaches Earth in the form of radiation.

B. Construct an explanation of the Big Bang theory based on astronomical evidence of light spectra, motion of distant galaxies, and composition of matter in the universe.

C. Communicate scientific ideas about the way stars, over their life cycle, produce elements.

D. Use mathematical or computational representations to predict the motion of orbiting objects in the solar system.

E. Evaluate evidence of the past and current movements of continental and oceanic crust and the theory of plate tectonics to explain the ages of crustal rocks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§2503. Space Systems**

A. Construct an explanation of the Big Bang theory based on astronomical evidence of light spectra, motion of distant galaxies, and composition of matter in the universe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2766 (November 2005), LR 43:

#### **§2505. History of Earth**

A. Apply scientific reasoning and evidence from ancient Earth materials, meteorites, and other planetary surfaces to construct an account of Earth's formation and early history.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§2507. Earth's Systems**

A. Develop a model to illustrate how Earth's internal and surface processes operate at different spatial and temporal scales to form continental and ocean-floor features.

B. Analyze geoscience data to make the claim that one change to Earth's surface can create feedbacks that cause changes to other Earth's systems.

C. Develop a model based on evidence of Earth's interior to describe the cycling of matter by thermal convection.

D. Analyze and interpret data to explore how variations in the flow of energy into and out of Earth's systems result in changes in atmosphere and climate.

E. Plan and conduct an investigation on the properties of water and its effects on Earth materials and surface processes.

F. Develop a quantitative model to describe the cycling of carbon among the hydrosphere, atmosphere, geosphere, and biosphere.

G. Construct an argument based on evidence about the simultaneous coevolution of Earth systems and life on Earth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **§2509. Human Sustainability**

A. Construct an explanation based on evidence for how the availability of natural resources, occurrence of natural hazards, and changes in climate have influenced human activity.

B. Evaluate competing design solutions for developing, managing, and utilizing energy and mineral resources based on cost-benefit ratios.

C. Create a computational simulation to illustrate the relationships among management of natural resources, the sustainability of human populations, and biodiversity.

D. Evaluate or refine a technological solution that reduces impacts of human activities on natural systems.

E. Analyze geoscience data and the results from global climate models to make an evidence-based forecast of the current rate of global or regional climate change and associated future impacts to Earth systems.

F. Use a computational representation to illustrate the relationships among Earth systems and how those relationships are being modified due to human activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **Chapter 27. Physical Science**

#### **§2701. Matter and Its Interactions**

A. Use the periodic table as a model to predict the relative properties of elements based on the patterns of



electrons in the outermost energy level and the composition of the nucleus of atoms.

B. Construct and revise an explanation for the outcome of a simple chemical reaction based on the outermost electron states of atoms, trends in the periodic table, and knowledge of the patterns of chemical properties.

C. Use mathematical representations to support the claim that atoms, and therefore mass, are conserved during a chemical reaction.

D. Develop models to illustrate the changes in the composition of the nucleus of the atom and the energy released during the processes of fission, fusion, and radioactive decay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2703. Motion and Stability: Forces and Interactions**

A. Analyze data to support the claim that Newton's second law of motion describes the mathematical relationship among the net force on a macroscopic object, its mass, and its acceleration.

B. Use mathematical representations to support the claim that the total momentum of a system of objects is conserved when there is no net force on the system.

C. Apply scientific and engineering ideas to design, evaluate, and refine a device that minimizes the force on a macroscopic object during a collision.

D. Plan and conduct an investigation to provide evidence that an electric current can produce a magnetic field and that a changing magnetic field can produce an electric current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2705. Energy**

A. Develop and use models to illustrate that energy at the macroscopic scale can be accounted for as a combination of energy associated with the motions of particles/objects and energy associated with the relative positions of particles (objects).

B. Design, build, and refine a device that works within given constraints to convert one form of energy into another form of energy.

C. Plan and conduct an investigation to provide evidence that the transfer of thermal energy when two components of different temperature are combined within a closed system results in a more uniform energy distribution among the components in the system (second law of thermodynamics).

D. Develop and use a model of two objects interacting through electric or magnetic fields to illustrate the forces between objects and the changes in energy of the objects due to the interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2707. Waves and Their Applications**

A. Use mathematical representations to support a claim regarding relationships among the frequency, wavelength, and speed of waves traveling in various media.

B. Evaluate the validity and reliability of claims in published materials regarding the effects that different frequencies of electromagnetic radiation have when absorbed by matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 29. Chemistry**

### **§2901. Matter and Its Interactions**

A. Use the periodic table as a model to predict the relative properties of elements based on the patterns of electrons in the outermost energy level and the composition of the nucleus of atoms.

B. Construct and revise an explanation for the outcome of a simple chemical reaction based on the outermost electron states of atoms, trends in the periodic table, and knowledge of the patterns of chemical properties.

C. Plan and conduct an investigation to gather evidence to compare the structure of substances at the macroscale to infer the strength of electrical forces between particles.

D. Develop a model to illustrate that the release or absorption of energy from a chemical reaction system depends upon changes in total bond energy.

E. Apply scientific principles and evidence to provide an explanation about the effects of changing the temperature or concentration of the reacting particles on the rate at which a reaction occurs.

F. Refine the design of a chemical system by specifying a change in conditions that would produce increased amounts of products at equilibrium.

G. Use mathematical representations to support the claim that atoms, and therefore mass, are conserved during a chemical reaction.

H. Develop models to illustrate the changes in the composition of the nucleus of the atom and the energy released during the processes of fission, fusion, and radioactive decay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2903. Motion and Stability: Forces and Interactions**

A. Communicate scientific and technical information about why the atomic-level, subatomic-level, and/or molecular level structure is important in the functioning of designed materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§2905. Energy**

A. Create a computational model to calculate the change in the energy of one component in a system when the change in energy of the other component(s) and energy flows in and out of the system are known.

B. Design, build, and refine a device that works within given constraints to convert one form of energy into another form of energy.

C. Plan and conduct an investigation to provide evidence that the transfer of thermal energy when two components of

different temperature are combined within a closed system results in a more uniform energy distribution among the components in the system (second law of thermodynamics).

D. Evaluate the validity and reliability of claims in published materials about the viability of nuclear power as a source of alternative energy relative to other forms of energy (e.g., fossil fuels, wind, solar, geothermal).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

## **Chapter 31. Physics**

### **§3101. Motion and Stability: Forces and Interactions**

A. Analyze data to support the claim that Newton's second law of motion describes the mathematical relationship among the net force on a macroscopic object, its mass, and its acceleration.

B. Use mathematical representations to support the claim that the total momentum of a system of objects is conserved when there is no net force on the system.

C. Apply scientific and engineering ideas to design, evaluate, and refine a device that minimizes the force on a macroscopic object during a collision.

D. Use mathematical representations of Newton's Law of Gravitation and Coulomb's Law to describe and predict the gravitational and electrostatic forces between objects.

E. Plan and conduct an investigation to provide evidence that an electric current can produce a magnetic field and that a changing magnetic field can produce an electric current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§3103. Energy**

A. Create a computational model to calculate the change in the energy of one component in a system when the change in energy of the other component(s) and energy flows in and out of the system are known.

B. Develop and use models to illustrate that energy at the macroscopic scale can be accounted for as a combination of energy associated with the motions of particles (objects) and energy associated with the relative positions of particles (objects).

C. Design, build, and refine a device that works within given constraints to convert one form of energy into another form of energy.

D. Plan and conduct an investigation to provide evidence that the transfer of thermal energy when two components of different temperature are combined within a closed system results in a more uniform energy distribution among the components in the system (second law of thermodynamics).

E. Develop and use a model of two objects interacting through electric or magnetic fields to illustrate the forces between objects and the changes in energy of the objects due to the interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

### **§3105. Waves and Their Applications in Technologies for Information Transfer**

A. Use mathematical representations to support a claim regarding relationships among the frequency, wavelength, and speed of waves traveling in various media.

B. Evaluate the claims, evidence, and reasoning behind the idea that electromagnetic radiation can be described either by a wave model or a particle model, and that for some situations one model is more useful than the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6; R.S. 17:24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, May 10, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 1962 Louisiana Science Content Standards**

### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no expected cost increases for the La Department of Education (LDE). The department has anticipated this transition and will target supports for the implementation of the standards using the current academic support delivery methods, which are funded in the existing operating budget. Future costs are anticipated to be funded with state and federal funds and statutorily dedicated revenues; however a reduction in state funds which cannot be offset with other means of finance may require certain costs to be shifted from other activities within the department or to local school districts. Local districts will likely see an increase in costs associated with the transition to the new standards, however those are indeterminable and will vary across the districts.

La. R.S. 17:24.4 requires the State Board of Elementary and Secondary Education (BESE) to adopt academic content standards, defined in the law as statements that define what a student should know or be able to accomplish at the end of a specific time period, grade level, or at the completion of a course. The law sets forth an expectation that standards be

rigorous and that they represent the knowledge and skills needed for students to successfully transition to postsecondary education and the workplace, as determined by content experts, elementary and secondary educators and school leaders, postsecondary education leaders, and business and industry leaders. BESE Bulletin 741, §2301 states, "The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning." The current science standards were last reviewed in 1997. In June 2016, BESE formed a standards review committee and workgroups to update the science standards. The committees were comprised of educators, content experts, post-secondary education faculty, and other stakeholders. These proposed revisions to Bulletin 1962 reflect the recommended new Louisiana Student Standards for Science that resulted from the review and development process.

The Louisiana Department of Education (LDE) will provide local education agencies (LEAs) with extensive support for the implementation of these standards, including but not limited to curriculum and resources, teacher training and professional development, and state and local assessments. These LDE-led activities will be funded in large part using existing federal (Title II, Part A and Title II - and Math Science Partnership) and statutorily dedicated 8(g) funds, as well as available state general funds, that are used to support ongoing academic planning. The LDE will provide a number of supports that were proven to be most effective as LEAs transitioned to other subject area standards over the past few years. Existing support structures for educators, including training meetings with LEA personnel, webinars, and materials, will be used to address the needed transitions in science. While LEAs may incur some costs associated with travel or for substitute teachers, such costs are expected to be minimal and the LDE will work to keep such costs as low as possible.

Curriculum support will include both Instructional Materials Reviews and New Standards Tools. The Instructional Materials Review rubric will be released and a call for vendor submissions will be released in March 2017. The Department will identify and train Teacher Leader Advisors to perform the reviews during the summer of 2017. The first reviews will be released in the fall of 2017. The LDE will prioritize science in the upcoming instructional materials review process as it works directly with publishers and other content providers whose products are most widely used by Louisiana school systems in order to update materials to reflect the new standards. LEAs will be able to use free or low cost instructional materials and supports developed by the LDE, or they may select aligned materials from any vendor or provider. LEAs may also continue to develop their own materials, as some have chosen to do. Regarding new standards tools, the connections to science standards will be released in April 2017; key shifts and instructional implications will be released in April 2017; a middle school sample transition plan will be released in June 2017; and sample scope and sequence documents will be released during the Summer of 2017.

Professional development support will be both intensive and ongoing. Self-paced learning modules/webinars will be released during the summer of 2017. Sessions will be held at collaborations beginning in March 2017 and continuing throughout the 2017-2018 school year. The Teacher Leader Summit will include multiple two-day and one-day institutes for all grade bands, (K-2, 3-5, 6-8, and high school), available to all districts. In addition, the Department is working with vendors to align trainings to the new standards. Multiple vendors, including Louisiana Tech University and Louisiana State University, will offer intensive summer sessions and ongoing coaching opportunities.

Assessment support will include both state summative assessments and locally initiated assessment support. The

previous request for proposal (RFP) secured a vendor for assessment development. A field test for grades 3-8 will be administered during the Spring of 2018. Operational tests will be administered during the Spring of 2019. The platform will be the same as ELA, Math, Social Studies, and EAGLE. The EAGLE Assessment Tool will be built out to contain a bank of new items and item sets. Teacher Leader Advisors, who will help create sample assessment items, will be identified in April/May 2017 and trained during the summer. EAGLE items will be created throughout the 2017-2018 school year.

Based on feedback from educators, the 2017-2018 school year will be a transition/learning year. The LDE will work with the current approved assessment vendor to administer a state field test in spring 2018 in grades 3-8. A fully aligned state science assessment will be administered in spring 2019. The platform for such assessment will be the same as for English language arts, mathematics, and social studies, in order to provide for ease of transition and to minimize costs.

A summary of the LDE's transition support plan is available here:  
[https://www.boarddocs.com/la/bese/Board.nsf/files/AK8V757EC59D/\\$file/AGII\\_6.3\\_Science\\_Standards\\_PP2\\_Mar\\_2017.pdf](https://www.boarddocs.com/la/bese/Board.nsf/files/AK8V757EC59D/$file/AGII_6.3_Science_Standards_PP2_Mar_2017.pdf).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1704#044

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Regents Office of Student Financial Assistance

Bylaws of the Louisiana Office of Student Financial Assistance Advisory Board (LAC 28:V.Chapters 1-2)

The Board of Regents announces its intention to amend its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

The proposed rulemaking will repeal the bylaws of the Louisiana Student Financial Assistance Commission in accordance with Act 314 of the 2016 Regular Session of the Louisiana Legislature and will implement bylaws for the newly formed LOSFA Advisory Board. (SG17175NI)

### Title 28 EDUCATION

#### Part V. Student Financial Assistance—Higher Education Loan Program

#### Chapter 1. Student Financial Assistance Commission Bylaws

#### §101. Definitions and Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:1993 (September 2000), LR 33:435 (March 2007), LR 33:2608 (December 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### §103. Meetings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1263 (July 1998), amended LR 26:1993 (September 2000), LR 33: 435 (March 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### §105. Officers of the Commission and Executive Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 33:2608 (December 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### §107. Order of Business

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 37:2986 (October 2011), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### §109. Committees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:811 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 26:484 (March 2000), LR 27:35 (January 2001), LR 32:391 (March 2006), LR 37:2987 (October 2011), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### §111. Communications to the Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:812 (September 1996), repromulgated LR 24:1265 (July 1998), LR 37:2987 (October 2011), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### §113. Rights Duties and Responsibilities of the Executive Staff of the Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:812 (September 1996), amended LR 24:1265 (July 1998), LR 25:654 (April 1999), LR 25:1091 (June 1999), LR 27:1218 (August 2001), LR 33:2608 (December 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **§115. Responsibilities of Commission Members**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1266 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **§117. Amendment or Repeal of Bylaws**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1266 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **§119. Rules and Regulations of Louisiana Student Financial Assistance Commission**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1266 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **§121. Effective Date**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1267 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **§123. Repealing Clause**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1267 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **Chapter 2. Bylaws of the Louisiana Office of Student Financial Assistance (LOSFA) Advisory Board**

### **Subchapter A. Purpose and Authority**

#### **§201. Purpose of the Advisory Board**

A. The purpose of the advisory board shall be to consider those matters relating to the student financial assistance programs and Section 529 College Savings Plan of the state and to provide technical advice and recommendations to the Board of Regents through LOSFA staff on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### **§203. Authority of the Advisory Board**

A. The advice and recommendations of the advisory board are only advisory in nature and are not binding upon the Board of Regents, its members, or its officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:610 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **Subchapter B. Meetings**

#### **§211. Regular Meetings**

A. The advisory board shall hold regular meetings, but no more than 12 per year. All regular meetings shall be held at the meeting place designated by the executive director of the Office of Student Financial Assistance (OSFA). Proxy voting shall be permitted provided that the proxy holder is an officer or employee of the organization represented by the appointed member and that a proxy does not represent the appointed member at more than two of the meetings scheduled annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### **§213. Special Meetings**

A. Special meetings of the advisory board may be called by the executive director of the Office of Student Financial Assistance at any time, provided the purposes of the meeting are specified, the members notified at least three calendar days before the time of the meeting, and sufficient members to form a quorum confirm their planned attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### **§215. Compensation**

A. Members of the advisory board shall be reimbursed for their travel expenses incurred in attending meetings in accordance with applicable state travel regulations if the organization represented by the appointed member does not reimburse them for their expenses and if otherwise allowed by law. No other compensation is authorized. Members may decline reimbursement for expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:610 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### **§217. Quorum**

A. Six voting members of the advisory board shall constitute a quorum for the transaction of business and a simple majority of the members present at any meeting voting for or against a particular item shall be the recommendation of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **Subchapter C. Membership and Officers of the Advisory Board**

### **§221. Membership**

A. The advisory board shall be composed of 11 voting members as follows:

1. one member from each postsecondary education board to be appointed by the respective board;
2. one member appointed the Louisiana Association of Independent Colleges and Universities (LAICU);
3. one member appointed by the Louisiana Association of Private Colleges and Schools who will represent proprietary and cosmetology schools;
4. one member to be appointed by the Louisiana Association of Student Financial Aid Administrators;
5. one private/parochial high school counselor to be appointed by the Louisiana Student Counselor Association;
6. one public/charter high school counselor to be appointed by the Louisiana Student Counselor Association;
7. one member appointed by the Board of Elementary and Secondary Education (BESE) to be rotated with one member appointed by the Department of Education;
8. one student member to be appointed by the Council of Student Body Presidents, whose rotation shall be as follows:
  - a. Louisiana State University System;
  - b. Southern University System;
  - c. University of Louisiana System;
  - d. Louisiana Technical and Community College System.

#### **B. Term**

1.a. The term of voting members shall be for two years except when the organization represented by the appointed member provides for a shorter term, in which case, the member's term shall meet the requirements of the organization represented.

b. Members may serve consecutive terms.

2. Terms shall begin on October 1 of each year.

#### **C. Notification of Membership**

1. LOSFA will send a notice to the organizations represented on the advisory board no later than July 1 of the year during which terms begin requesting appointments for the upcoming term. The organization shall respond in sufficient time to allow LOSFA to confirm the appointee's willingness to serve prior to the beginning of the term on October 1.

2. The appointee must submit the confirmation of membership by September 1 of that same year.

#### **D. Replacements**

1. If an appointee declines to participate or does not submit a timely confirmation, LOSFA shall so notify the appropriate organization and request another person be appointed.

2. If a member is unable to complete his/her term for any reason, the organization represented by that member shall appoint a replacement who shall complete the rest of the term and shall be eligible for membership for the next two-year term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008), LR 37:2598 (September 2011), LR 42:49

(January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§223. Chairman and Vice-Chairman**

A. The chairman and vice chairman shall be selected annually by vote of the members of the advisory board from among the members of the advisory board. The chairman of the advisory board shall preside over all meetings, serve as ex officio member of all subcommittees, if any, designate the duties of the vice-chairman, and appoint the membership of all subcommittees, if any. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:611 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§225. Executive Director of the Office of Student Financial Assistance (OSFA)**

A. The executive director of the Office of Student Financial Assistance shall:

1. prepare the business agenda;
2. provide administrative support to the advisory board within the resources of his/her office allocated for that purpose;
3. approve the travel of advisory board members; and
4. in conjunction with the chairman, schedule meetings of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **Subchapter D. Business Rules**

### **§231. Rules of Order**

A. When not in conflict with any of the provisions of these bylaws, *Roberts' Rules of Order* shall constitute the rules of parliamentary procedure applicable to all meetings of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§233. Order of Business**

A. The order of business of regular meetings of the advisory board shall be as follows, unless the rules are suspended by a simple majority vote of the quorum present:

1. call to order;
2. roll call;
3. introductions and announcements;
4. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
5. public comment;
6. reports and recommendations of subcommittees;
7. unfinished business; and
8. new business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance,

LR 24:436 (March 1998), amended LR 42:50 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§235. Meetings**

A. Meetings shall be conducted in accordance with the state law governing public bodies. It shall be the policy of the advisory board that all meetings are open to the public and that parties with interest in the proceedings are encouraged to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§237. Agenda**

A. Prior to each regular or special meeting of the advisory board, the executive director of OSFA shall prepare a tentative agenda and forward it to each member of the advisory board at least five working days prior to such meeting. With the concurrence of its members, all matters supportive of the purpose of the advisory board may be discussed even though not scheduled on the agenda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§239. Minutes**

A. At a minimum, the minutes of the advisory board shall record official motions or recommendations that are voted on by the advisory board. The minutes may contain a summary of reports and pertinent discussion of issues. Each recommendation shall be reduced to writing and presented to the advisory board before it is acted on. The minutes of meetings of the advisory board become official when approved by the advisory board at its next scheduled meeting but, prior to such occurrence, the minutes may be presented to the Board of Regents as the unofficial action of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§241. Meeting Attendance**

A. Members unable to continue their service on the advisory board shall so notify the chairman and request that a replacement be named in accordance with §221 of these bylaws. Members who fail to regularly attend meetings without just cause, may be removed from membership in accordance with §221 of these bylaws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§243. Subcommittees**

A. Executive Committee

1. The executive committee shall consist of four members. The chairman and vice chairman of the advisory

board shall serve in those capacities on the executive committee. The remaining persons, for a total of four members, shall be appointed by the chairman of the advisory board from the other members of the advisory board.

2. The executive committee shall:

a. meet for and conduct the business of the advisory board in all instances that the public has been given notice of a meeting of the advisory board and the advisory board does not have a quorum at that meeting. In such cases, the actions of the executive committee shall have the same force and effect as if a quorum of the advisory board had taken the action;

b. consider such matters as shall be referred to it by the advisory board and shall execute such orders and resolutions as shall be assigned to it at any meeting of the advisory board;

c. in the event that an emergency requiring immediate advisory board action shall arise between advisory board meetings, meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the advisory board for ratification at the advisory board's next meeting.

3. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

4. The executive committee may enter into an executive session only upon two-thirds majority vote of the quorum present and only for one of the reasons specified in the Louisiana open meetings law.

B. Other subcommittees may be appointed by the chairman to perform specific functions defined by the advisory board. The membership, chairmanship, and function of subcommittees shall be determined by the chairman. Generally, the business rules defined herein shall be applicable to subcommittees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

## **Subchapter E. Approval and Amendment of Bylaws**

### **§245. Approval of Bylaws**

A. To receive the Board of Regents' consideration, advisory board bylaws must be favorably recommended by the advisory board and the executive director of LOSFA. Bylaws become effective upon approval by the Board of Regents and publication as a final Rule in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

### **§247. Amendments to Bylaws**

A. The advisory board, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the advisory board. Amendment or repeal of the bylaws becomes effective upon approval by the Board of Regents and publication as an Emergency Rule and/or a final Rule in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (SG17175NI) until 4:30 p.m., May 10, 2017, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bylaws of the Louisiana Office of Student Financial Assistance Advisory Board**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is not anticipated to result in costs or savings to the Office of Student Financial Assistance or any other state or local government units. The proposed rule change adopts Act 314 of the 2016 Regular Session of the Louisiana Legislature that abolished the Louisiana Student Financial Assistance Commission (LASFAC) and moved all responsibilities of the Commission to the Louisiana Board of Regents (BOR). In addition, BOR replaced the Advisory Committee to the Louisiana Office of Student Financial Assistance (LOSFA) with the LOSFA Advisory Board to provide technical advice and recommendations to BOR. The proposed rulemaking repeals LASFAC's bylaws and implements bylaws for the new LOSFA Advisory Board.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change is not anticipated to have any costs or economic benefits to persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively  
Senior Attorney  
1704#007

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Tuition Trust Authority Office of Student Financial Assistance**

#### **START Saving Program (LAC 28:VI.315)**

The Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.). This rulemaking adds the applicable interest rates for the 2016 calendar year. (ST17177NI)

#### **Title 28**

#### **EDUCATION**

#### **Part VI. Student Financial Assistance—Higher Education Savings**

#### **Chapter 3. Education Savings Account**

#### **§315. Miscellaneous Provisions**

##### **A. - B.34. ...**

35. For the year ending December 31, 2016, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.6 percent.

36. For the year ending December 31, 2016, the Savings Enhancement Fund earned an interest rate of 1.2 percent.

##### **C. - S.2. ...**

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.



### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

### **Public Comments**

Interested persons may submit written comments on the proposed changes (ST17177NI) until 4:30 p.m., May 10, 2017, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: START Saving Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is not anticipated to result in costs or savings to the Office of Student Financial Assistance or any other state or local government units. The proposed rule change codifies the actual earnings realized on START accounts that are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements for the 2016 calendar year.

The increase earned on accounts invested in the Principal Protection investment option is the property of the account owners and the interest earned on Earning Enhancements is allocated to START accounts and is the property of the account owner upon payment of START account funds for the Qualified Higher Education Expenses (QHEE) of a beneficiary.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change is not anticipated to have any costs or economic benefits to persons or non-governmental groups. These changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2016. START account holders earned approximately the same as in the previous year.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively  
Senior Attorney  
1704#009

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

### **Department of Environmental Quality Office of the Secretary Legal Division**

### **Municipal Separate Storm Sewer Systems General Permit Revisions (LAC 33:IX.Chapter 25)(WQ095ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2515, 2521, 2523 and 2525 (Log #WQ095ft).

This Rule is identical to federal regulations found in 40 CFR 122.28-122.35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule revises the Municipal Separate Storm Sewer Systems (MS4s) general permit requirements and is identical to portions of the recent MS4 General Permit Remand Rule, as discussed below which was finalized by EPA on November 17, 2016. In their rule, the EPA changed the regulations on how small MS4s obtain coverage under NPDES general permits. This change addresses the partial 2003 remand of the Phase II storm water regulations by the U.S. Court of Appeals. The court found that EPA failed in two areas: (1) to require permitting authority review of the best management practices (BMPs) to be used at a particular MS4 to ensure that the small MS4 permittee reduces pollutants in the storm water discharges to the maximum extent practicable (MEP); and (2) failed to provide for adequate public notice and opportunity to request a hearing. The final EPA rule provides two methods to the permitting authority on how to develop small MS4 general permits and issue coverage to regulated small MS4s. The final rule also changes notice of intent requirements and clarifies that it is the permitting authority's responsibility to establish permit terms and conditions that meet the MS4 regulatory standards. The EPA rule also emphasizes that permit requirements must be expressed in "clear, specific and measurable" terms. This Rule is identical to the EPA changes. The basis and rationale for this Rule are to mirror federal regulations, ensuring consistency regarding the issuance of LPDES permits for small MS4s. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S.

49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part IX. Water Quality**

#### **Subpart 2. The Louisiana Pollutant Discharge**

#### **Elimination System (LPDES) Program**

### **Chapter 25. Permit Application and Special LPDES Program Requirements**

#### **§2515. General Permits**

A. - B.2.g. ...

h. Small Municipal Separate Storm Sewer Systems (MS4s). For general permits issued under Paragraph B of this Section for small MS4s, the state administrative authority shall establish the terms and conditions necessary to meet the requirements of LAC 33:IX.2523 using one of the two permitting approaches in Clauses i-ii of this Section. The state administrative authority shall indicate in the permit or fact sheet which approach is being used.

i. Comprehensive General Permit. The state administrative authority includes all required permit terms and conditions in the general permit; or

ii. Two-step General Permit. The state administrative authority includes required permit terms and conditions in the general permit applicable to all eligible small MS4s; and during the process of authorizing small MS4s to discharge, establishes additional terms and conditions not included in the general permit to satisfy one or more of the permit requirements in LAC 33:IX.2523 for individual small MS4 operators.

(a). The general permit shall require that any small MS4 operator seeking authorization to discharge under the general permit submit a Notice of Intent (NOI) consistent with LAC 33:IX.2515.B.2.b.

(b). The state administrative authority shall review the NOI submitted by the small MS4 operator to determine whether the information in the NOI is complete and to establish the additional terms and conditions necessary to meet the requirements of LAC 33:IX.2523. The state administrative authority may require the small MS4 operator to submit additional information. The public notice, the process for submitting public comments and hearing requests, and the hearing process, if a request for a hearing is granted, shall follow the procedures applicable to draft permits set forth in LAC 33:IX.315. If the state administrative authority makes a preliminary decision to authorize the small MS4 operator to discharge under the general permit, the state administrative authority shall give the public notice of:

(i). an opportunity to comment and request a public hearing on its proposed authorization and the NOI;

(ii). the proposed additional terms and conditions; and

(iii). the basis for these additional requirements.

(c). Upon authorization for the MS4 to discharge under the general permit, the final additional terms and conditions applicable to the MS4 operator become effective. The state administrative authority shall notify the permittee

and inform the public of the decision to authorize the MS4 to discharge under the general permit and of the final additional terms and conditions specific to the MS4.

B.3. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), LR 35:651 (April 2009), amended by the Office of the Secretary, Legal Division, LR 43:

#### **§2521. Requirements for Obtaining Permit Coverage for Regulated Small MS4s**

A. The operator of any regulated small MS4 under LAC 33:IX.2519 shall seek coverage under an LPDES permit issued by the state administrative authority.

B. The operator of any regulated small MS4 shall seek authorization to discharge under a general or individual LPDES permit, as follows:

##### **1. General Permit Notices of Intent**

a. If seeking coverage under a general permit issued by the state administrative authority in accordance with LAC 33:IX.2519, the small MS4 operator shall submit a Notice of Intent (NOI) consistent with LAC 33:IX.2515.B.2.b. The small MS4 operator may file its own NOI or the small MS4 operator and other municipalities or governmental entities may jointly submit a NOI. If the small MS4 operator wants to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, the small MS4 operator shall submit a NOI that describes which minimum measures it will implement and identify the entities that will implement the other minimum measures within the area served by the MS4. The general permit will explain any other steps necessary to obtain permit authorization.

b. If seeking coverage under a general permit issued by the state administrative authority, in accordance with LAC 33:IX.2515, the small MS4 operator shall submit a NOI to the state administrative authority consisting of the minimum required information in LAC 33:IX.2515.B.2.b, and any other information the state administrative authority identifies as necessary to establish additional terms and conditions that satisfy the permit requirements of LAC 33:IX.2523, such as the information required under LAC 33:IX.2521.B.2.a. The general permit will explain any other steps necessary to obtain permit authorization.

##### **2. Individual Permit Application Requirements**

a. If seeking authorization to discharge under an individual permit to implement a program under LAC 33:IX.2523, the small M4 operator shall submit an application to the state administrative authority that includes the information required under LAC 33:IX.2501.F and the following:

i. the best management practices (BMPs) that the small MS4 operator or another entity proposes to implement for each of the storm water minimum control measures described in LAC 33:IX.2523;

ii. the proposed measurable goals for each of the BMPs including, as appropriate, the months and years in which the small MS4 operator proposes to undertake required actions, including interim milestones and the frequency of the action;

iii. the person or persons responsible for implementing or coordinating the storm water management program;

iv. an estimate of square mileage served by the small MS4;

v. any additional information required by the state administrative authority; and

vi. a storm sewer system map that satisfies the requirement of LAC 33:IX.2523B.3.a satisfies the map requirement in LAC 33:IX.2501.F.7.

b. If seeking authorization to discharge under an individual permit to implement a program that is different from the program under LAC 33:IX.2523, the small MS4 operator shall comply with the permit application requirements of LAC 33:IX.2511.D. The small MS4 operator shall submit both parts of the application requirements in LAC 33:IX.2511.D.1 and 2 at least 180 days before the expiration of the small MS4 operator's existing permit. Information required by LAC 33:IX.2511.D.1.b and 2 regarding its legal authority is not required, unless the small MS4 operator intends for the permit writer to take such information into account when developing other permit conditions.

c. If approved by the state administrative authority, the small MS4 operator and another regulated entity may jointly apply under either Subparagraph B.2.a or b of this Section to be co-permittees under an individual permit.

3. If the regulated small MS4 is in the same urbanized area as a medium or large MS4 with an LPDES storm water permit and that other MS4 is willing to have the small MS4 operator participate in its storm water program, the parties may jointly seek a modification of the other MS4 permit to include the small MS4 operator as a limited co-permittee. As a limited co-permittee, the small MS4 operator will be responsible for compliance with the permit's conditions applicable to its jurisdiction. If the small MS4 operator chooses this option it shall comply with the permit application requirements of LAC 33:IX.2511, rather than the requirements of LAC 33:IX.2521.B.2. The small MS4 operator does not need to comply with the specific application requirements of LAC 33:IX.2511.D.1.c, d, and 2.c (discharge characterization). The small MS4 operator may satisfy the requirements in LAC 33:IX.2511.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program.

4. Guidance for Paragraph B.3 of this Section in referencing the other MS4's storm water management program, the small MS4 operator should briefly describe how the existing program will address discharges from the small MS4 or would need to be supplemented in order to adequately address the discharges. The small MS4 operator should also explain its role in coordinating storm water pollutant control activities in the MS4 and detail the resources available to the small MS4 operator to accomplish the program.

C. If the regulated small MS4 is designated under LAC 33:IX.2519.A.2, the small MS4 operator shall apply for

coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Paragraph B.3 of this Section within 180 days of notice of such designation, unless the state administrative authority grants a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

#### **§2523. Permit Requirements for Regulated Small MS4s**

A. General Requirements. For any permit issued to a regulated small MS4, the state administrative authority shall include permit terms and conditions to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Terms and conditions that satisfy the requirements of this Section shall be expressed in clear, specific, and measurable terms. Such terms and conditions may include narrative, numeric, or other types of requirements (e.g., implementation of specific tasks or best management practices (BMPs), BMP design requirements, performance requirements, adaptive management requirements, schedules for implementation, maintenance, and frequency of actions).

1. For permits providing coverage to any small MS4s for the first time, the state administrative authority may specify a time period of up to five years from the date of permit issuance for the permittee to fully comply with the conditions of the permit and to implement necessary BMPs.

2. For each successive permit, the state administrative authority shall include terms and conditions that meet the requirements of this Section based on its evaluation of the current permit requirements, record of permittee compliance and program implementation progress, current water quality conditions, and other relevant information.

B. The permit shall include requirements that ensure the permittee implements, or continues to implement, the minimum control measures in Paragraphs 1-6 of this Section during the permit term. The permit shall also require a written storm water management program document or documents that, at a minimum, describe in detail how the permittee intends to comply with the permit's requirements for each minimum control measure.

1. Public Education and Outreach on Storm Water Impacts

a. The permit shall identify the minimum elements and require implementation of a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. The permittee may use storm water educational materials provided by the state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps

they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. The EPA recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. The EPA recommends that the permit require the permittee to tailor the public education program using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, EPA recommends that the permit require that some of the materials or outreach programs be directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. The permit should encourage the permittee to tailor the outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

## 2. Public Involvement/Participation

a. The permit shall identify the minimum elements and require implementation of a public involvement/participation program that complies with state, tribal, and local public notice requirements.

b. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. The EPA recommends that the permit include provisions addressing the need for the public to be included in developing, implementing, and reviewing the storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

## 3. Illicit Discharge Detection and Elimination

a. The permit shall identify the minimum elements and require the development, implementation, and enforcement of a program to detect and eliminate illicit discharges (see LAC 33:IX.2511.B.2) into the small MS4.

b. At a minimum, the permit shall require the permittee to:

i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and

the names and location of all waters of the state that receive discharges from those outfalls;

ii. to the extent allowable under state, tribal, or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;

iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the system; and

iv. ...

c. The permit shall also require the permittee to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if the permittee identifies them as a significant contributor of pollutants to the small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(b)(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from firefighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. The EPA recommends that the permit require the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The EPA recommends that the permit require the permittee to visually screen outfalls during dry weather and conduct field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

## 4. Construction Site Storm Water Runoff Control

a. The permit shall identify the minimum elements and require the development, implementation, and enforcement of a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to 1 acre. Reduction of storm water discharges from construction activity disturbing less than 1 acre shall be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb 1 acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC 33:IX.2511.B.15.a, the permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. At a minimum, the permit shall require the permittee to develop and implement:

i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;

ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

iii. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

iv. procedures for site plan review that incorporate consideration of potential water quality impacts;

v. procedures for receipt and consideration of information submitted by the public; and

vi. procedures for site inspection and enforcement of control measures.

c. EPA Guidance for the State Administrative Authority and Small Regulated MS4s. Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The EPA recommends that the procedures for site plan review include the review of individual preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. The EPA also recommends that the permit require the permittee to provide appropriate educational and training measures for construction site operators, and require storm water pollution prevention plans for construction sites within the MS4's jurisdiction that discharge into the system. See LAC 33:IX.2707.R (LPDES permitting authorities option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2525.B. (The state administrative authority may recognize that another government entity may be responsible for implementing one or more of the minimum measures on the permittee's behalf.)

#### 5. Post-Construction Storm Water Management in New Development and Redevelopment

a. The permit shall identify the minimum elements and require the development, implementation, and enforcement of a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to 1 acre, including projects less than 1 acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The permit shall ensure that controls are in place that would prevent or minimize water quality impacts.

b. At a minimum, the permit shall require the permittee to:

i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for the community;

ii. - iii. ...

c. EPA Guidance for the State Administrative Authority and Regulated Small MS4s. If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. The EPA recommends that the permit ensure that the BMPs included in the program be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. The EPA encourages the permittee to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, the EPA recommends that the permit requires the permittee to adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing the program, the permit should also require the permittee to assess existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, the permit should require the permittee to provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The EPA recommends that the permit ensures the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction, or operation and maintenance. Storm water technologies are constantly being improved, and EPA recommends that the permit requirements be responsive to these changes, developments, or improvements in control technologies.

#### 6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. The permit shall identify the minimum elements and require the development and implementation of an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, the state, tribe, or other organizations, the program shall include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. EPA Guidance for the State Administrative Authority and Small Regulated MS4s. The EPA recommends that the permit address the following: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from the separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by the permittee, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

#### C. Other Applicable Requirements

##### 1. As appropriate, the permit will include:

a. more stringent terms and conditions, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved total maximum daily load (TMDL) or equivalent analysis, or where the state administrative authority determines such terms and conditions are needed to protect water quality; and

b. other applicable LPDES permit requirements, standards, and conditions established in the individual or general permit, developed consistently with the provisions of LAC 33:IX.2701-2715, as appropriate.

#### D. Evaluation and Assessment Requirements

1. Evaluation. The permit shall require the permittee to evaluate compliance with the terms and conditions of the permit, including the effectiveness of the components of its storm water management program, and the status of achieving the measurable requirements in the permit.

NOTE: The state administrative authority may determine monitoring requirements for the permittee in accordance with state/tribal monitoring plans appropriate to the watershed. Participation in a group monitoring program is encouraged.

2. Recordkeeping. The permit shall require that the permittee keep records required by the LPDES permit for at least three years and submit such records to the state administrative authority when specifically asked to do so.

The permit shall require the permittee to make records, including a written description of the storm water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). The permittee may assess a reasonable charge for copying. The permit may allow the permittee to require a member of the public to provide advance notice.

3. Reporting. Unless the permittee is relying on another entity to satisfy its LPDES permit obligations under LAC 33:IX.2525.A, the permittee shall submit annual reports to the state administrative authority for its first permit term. For subsequent permit terms, the permittee shall submit reports in years two and four unless the state administrative authority requires more frequent reports. The report shall include:

a. the status of compliance with permit terms and conditions;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities the permittee proposes to undertake to comply with the permit during the next reporting cycle;

d. any changes made during the reporting period to the permittee's storm water management program; and

e. notice that the permittee is relying on another governmental entity to satisfy some of the permit obligations (if applicable), consistent with LAC 33:IX.2525.

E. If an existing qualifying local program requires the permittee to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in the LPDES permit that direct the permittee to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

#### **§2525. May the operator of a regulated small MS4 share the responsibility to implement the minimum control measures with other entities?**

A. The permittee may rely on another entity to satisfy its LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on the permittee's behalf. In the reports the permittee shall submit under LAC 33:IX.2523.G.3, the permittee shall also specify if it is relying on another entity to

satisfy some of the permit obligations. If the permittee is relying on another governmental entity regulated under LAC 33:IX.Chapters 23-71 to satisfy all of the permit obligations, including the obligation to file periodic reports required by LAC 33:IX.2523. D.3, the permittee shall note that fact in its NOI, but the permittee is not required to file the periodic reports. The permittee remains responsible for compliance with the permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages the permittee to enter into a legally binding agreement with that entity if the permittee wants to minimize any uncertainty about compliance with the permit.

B. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 33:2167 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ095ft. Such comments must be received no later than May 25, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ095ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

#### **Public Hearing**

A public hearing will be held on May 25, 2017, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

1704#030

## **NOTICE OF INTENT**

### **Office of the Governor Coastal Protection and Restoration Authority**

#### **Oil Spill Prevention and Response (LAC 43:XXIX.Chapter 1)**

Under the authority of Act 362 of the 2016 Louisiana Legislative Regular Session (Act 362), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the chairman of the Coastal Protection and Restoration Authority (CPRA), in coordination with the Oil Spill Coordinator's Office (LOSCO), give notice that rulemaking procedures have been initiated to amend the Oil Spill Prevention and response act regulations, LAC 43:XXIX.109, 121, 125, and 129.

Act 362 authorized CPRA to establish a restoration banking program and corresponding oil spill compensation schedule. On January 20, 2017, CPRA filed proposed rules to govern the restoration banking program, and the purpose of the current proposed amendments is to establish the corresponding oil spill compensation schedule (schedule) for that program. The schedule may be utilized by the State trustees [CPRA, LOSCO, the Department of Environmental Quality, the Department of Natural Resources, and the Department of Wildlife and Fisheries (collectively, state trustees)] as an additional expedited procedure to assess natural resource injuries associated with certain oil spills in the Louisiana coastal area. The proposed amendments also authorize the state trustees, where appropriate, to propose and select the purchase of credits from certified restoration banks established in accordance with LAC 43:XXXI.Chapter 1 to restore for natural resource injuries from oil spills in the Louisiana coastal area.

#### **Title 43**

### **NATURAL RESOURCES**

#### **Part XXIX. Oil Spill Prevention and Response**

#### **Chapter 1. Natural Resource Damage Assessment**

#### **Subchapter A. General Provisions**

#### **§109. Definitions**

A. ...

\* \* \*

*Discounted Service Acre-Year (DSAY)*—a unit of measure that is commonly used in habitat equivalency analysis and reflects the level of ecological services provided by a specified acreage of habitat over time, adjusted to account for differences in timing between the provision of injured and compensatory ecological services. Habitat equivalency analysis is a methodology commonly used in natural resource damage assessments to quantify losses in ecological services provided by injured natural resource habitat over time and estimate the scale of

compensatory restoration actions appropriate to offset quantified losses.

\* \* \*

*Louisiana Coastal Area*—Louisiana coastal waters, defined in R.S. 49:214.2(4) as “the Louisiana coastal zone and contiguous areas subject to storm or tidal surge and the area comprising the Louisiana coastal ecosystem as defined in section 7001 of P.L. 110-114”.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2451 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Oil Spill Coordinator’s Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

### **Subchapter C. Natural Resource Damage Assessments**

#### **§121. Assessment Procedures and Protocols for Determining, Quantifying, and Valuing Natural Resource Injury and Loss of Services**

A. - H.3. ...

4. When appropriate, the coordinator and the state natural resource trustees may, at their sole discretion, utilize the schedule below as an expedited assessment procedure to assess natural resource injuries associated with an unauthorized discharge of crude oil, or other oil that in the sole discretion of the coordinator and state natural resource trustees interacts with the environment in a manner similar to crude oil, in the Louisiana coastal area.

<b>Injury Amount (DSAYS)</b>	<b>Habitat(s) See RRP PEIS for definitions of habitats</b>	<b>Oiling Conditions and/or Response Activities</b>
<b>Coastal Herbaceous Wetlands</b>		
15.08	Saline or Brackish marsh or Fresh marsh	Sediments are or have been saturated with oil; or excavation or other severe response actions have occurred.
1.81	Saline or Brackish marsh (Spartina-dominated)	Moderate to heavy oiling on a large portion of the plants; or heavy oiling in/on the sediments; or significant response activities have occurred.
	Saline or Brackish marsh (Mangrove-dominated)	Moderate to heavy oiling on a medium to large portion of the plants; or heavy oiling in/on the sediments; or moderate response activities have occurred.
1.02	Fresh marsh (Phragmites-dominated)	Light to heavy oiling on a medium to large portion of the plants; or heavy oiling in/on the sediments; or the Phragmites is cut as a response measure.
0.75	Saline or Brackish marsh (Spartina-dominated) or Fresh marsh (excluding Phragmites-dominated)	Moderate oiling on a medium portion of the plants or light oiling on a medium portion of the plants and light to moderate oiling in/on the sediments; or moderate oiling in/on the sediments; or moderate response activities have occurred.
0.39	Saline or Brackish marsh (Spartina-dominated marsh)	Light to heavy oiling on the plants while plants are in senescence.
	Mudflats	Light to heavy oiling on the mudflat.

<b>Injury Amount (DSAYS)</b>	<b>Habitat(s) See RRP PEIS for definitions of habitats</b>	<b>Oiling Conditions and/or Response Activities</b>
0.13	Saline or Brackish marsh (Spartina- dominated)	Light oiling on the plants.
	Fresh marsh (Phragmites-dominated)	Light to heavy oiling on a small portion of the plants; or the Phragmites is cut as a response measure while in senescence.
0.01	Saline or Brackish marsh or Fresh marsh	Presence of light sheen on water adjacent to or in the marsh.
<b>Coastal Forested Wetlands</b>		
28.06	Cypress Forest	Sediments are or have been saturated with oil; or excavation or other severe response actions have occurred.
27.71	Bottomland Hardwood Forest	Sediments are or have been saturated with oil; or the majority of the tree canopy is oiled; or excavation or other severe response actions have occurred.
2.42	Cypress Forest or Bottomland Hardwood Forest	Light to heavy oiling on the bark of trees.

a. Trustees may utilize the schedule as a basis for negotiated settlements in which the responsible party pays the trustees a certain amount to resolve natural resource damage claims. Trustees may utilize these funds to:

i. purchase restoration credits that are consistent with the requirements of OPA and OSPRA from restoration banks certified and established in accordance with LAC 43:XXXI.Chapter 1; or

ii. if no appropriate restoration bank credits become available within a reasonable time frame, fund existing restoration strategies or plans.

b. The coordinator shall give public notice of any updates to this schedule in accordance with §135.A of this Chapter.

I. - J. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2451 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Oil Spill Coordinator’s Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

#### **§125. Plans for Restoration, Rehabilitation, Replacement and/or Acquisition of the Equivalent of Injured Natural Resources**

A. - F. ...

G. If one or more restoration banks have been certified under LAC 43:XXXI.Chapter 1, the state trustees may, where consistent with the requirements of OPA and OSPRA, propose and select the purchase of credits from a certified NRD restoration bank as the preferred restoration alternative for purposes of compensating for the injuries resulting from a particular incident.

H. The coordinator shall issue a certificate of completion to the responsible party when no further actions are necessary to achieve the goals of the restoration plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2451 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Oil Spill Coordinator’s Office, LR 25:501 (March 1999),



amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

#### **Subchapter D. Administration**

#### **§129. Recovery of Damages**

A. - A.2. ...

3. negotiate and purchase the credit(s) specified by the state trustees from a restoration bank certified under LAC 43:XXXI.Chapter 1, provided that the offered credit price is consistent with the requirement for cost-effective restoration under OPA and OSPRA. Should the state trustees determine that the price being offered for the purchase of the credit(s) is not cost-effective (as that term is defined in OPA and OSPRA rules and regulations) the state trustees may elect to propose and select other restoration alternatives consistent with the requirements of OPA and OSPRA.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.5.

#### **Provider Impact Statement**

The proposed Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed Rule. Persons commenting should reference the proposed Rule by using the term NRD Expedited Assessment Schedule. Such comments must be received no later than May 30, 2017, at 4:30 p.m., and should be sent to the Louisiana Coastal Protection and Restoration Authority, c/o Liz Williams, 150 Terrace Avenue, Baton Rouge, LA 70802 or to fax (225) 342-4674 or by e-mail to [mitigation.banking@la.gov](mailto:mitigation.banking@la.gov). This Rule is available on the internet at [www.coastal.la.gov](http://www.coastal.la.gov).

Johnny B. Bradberry  
Chairman

Michael Ellis  
Executive Director  
1704#061

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Oil Spill Prevention and Response**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is anticipated to increase the Louisiana Oil Spill Coordinator's Office (LOSCO) expenditures beginning in FY 18 by approximately \$324,614 and approximately \$662,596 in FY 19 and beyond to the extent additional oil spills proceed to restoration planning. Act 362 of the 2016 Regular Legislative Session authorized the Coastal Protection and Restoration Authority Board to establish a restoration banking program and a corresponding oil spill

compensation schedule (schedule). This proposed rule codifies the changes necessary for the schedule.

LOSCO is the agency primarily responsible for responding to, investigating, and assessing oil spills for the State. It is anticipated that LOSCO will require six additional positions (five environmental scientists and an administrative assistant) to meet the increased number of natural resource damage assessments. This anticipated increase in expenditures will be offset by cost recovery, which includes reimbursement of personnel costs incurred to assess oil spills, that existing law authorizes and requires LOSCO to pursue from the Responsible Party. The other State Trustees (CPRA, DNR, DEQ, LDWF) anticipate they will be able to participate in the program utilizing existing funds and positions.

This program will be implemented by the Louisiana natural resource damage assessment trustees: the Coastal Protection and Restoration Authority (CPRA), the Louisiana Oil Spill Coordinator's Office (LOSCO), the Louisiana Department of Environmental Quality (DEQ), the Louisiana Department of Natural Resources (DNR), and the Louisiana Department of Wildlife and Fisheries (DWF), collectively (State trustees).

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is anticipated to increase the number of oil spills that proceed to restoration planning. The expedited assessment procedure utilizing the proposed schedule is intended to result in collections for the State that are consistent with activity-based cost accounting to ensure full cost recovery. The number of oil spills that proceed to restoration planning is expected to increase as a result of the new assessment procedure, which is more efficient and cost-effective than current assessment options, for certain oil spills.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change is expected to provide an additional expedited assessment procedure to assess natural resource injuries associated with an unauthorized discharge of oil in the Louisiana Coastal Area. As a result, it is anticipated the proposed rule will expedite the assessment of oil spills, the implementation of restoration projects in the Louisiana Coastal Area and will accelerate coastal restoration for Louisiana businesses and residents.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no impact upon competition and employment in the state. However, the proposed rule change is expected to foster opportunities for individuals, businesses, and non-profit organizations with relevant expertise to help achieve coastal restoration goals.

### **NOTICE OF INTENT**

#### **Department of Health Board of Embalmers and Funeral Directors**

License, Internship, Inspection, and Fees  
(LAC 46:XXXVII.301, 501, 505, 509,  
513, 701, 703, 901, 1107, and 2001)

The Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII.Chapters 3, 5, 7, 9, 11 and 20 pursuant to the authority granted by R.S. 37:840 in accordance with the provisions of the Administrative

Procedure Act, amend and/or add provisions of the rules, regulations, and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding of these changes.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXVII. Embalmers and Funeral Directors**

##### **Chapter 3. Application**

###### **§301. Application Forms**

A. Applications for a funeral director license or an embalmer and funeral director license shall be made on forms as provided by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 5:277 (September 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2819 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

##### **Chapter 5. Examination**

###### **§501. Place and Time**

A. Examinations shall be held at those times as the board may deem necessary and expedient either:

1. at such other location(s) as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993), LR 30:2819 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

###### **§505. Examination for an Embalmer and Funeral Director**

A. Applicants for an embalmer and funeral director license shall be given a written and/or oral examination on subjects defined in courses required by the American Board of Funeral Service Education and laws, rules, and regulations of the state of Louisiana, together with any such other subjects as the board may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993) amended LR 30:2819 (December 2004), LR 43:

###### **§509. Failing Examination**

A. Any applicant for a funeral director or an embalmer and funeral director license whose application has been accepted by the board, and who shall fail in an examination shall not be entitled to the return of the examination fee. In order to qualify for subsequent examinations, applicant must reapply as provided in R.S. 37:842. In addition, the board, at its discretion, may stipulate certain requirements that deal with preparation and study for the re-examination.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985) repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2820 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

###### **§513. Passing Examination**

A. When the applicant for an embalmer and funeral director license has complied with all requirements, and receives a passing grade of not less than 75 percent on the examination, he shall be entitled to receive a license to practice embalming and funeral directing.

B. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), LR 17:271 (March 1991), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2820 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

##### **Chapter 7. License**

###### **§701. Renewal and Reinstatement**

A. All individual funeral director or embalmer and funeral director licenses issued by the board shall expire on the thirty-first day of December of each year and must be renewed on or before that date. All establishment licenses and the *Annual Report of Prepaid Funeral Services or Merchandise* shall also expire on the thirty-first day of December and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee as established by the board.

B. Application for renewal of a funeral director or an embalmer and funeral director license and establishment license may be submitted to the board any time after October 1 of each year. When a licensed funeral establishment or individual licensee renews the license, should the check be deficient in any manner, the license shall be considered as non-issued and a new application and fee must be submitted.

C. When the holder of an embalmer and funeral director or funeral director license has failed to renew his license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement. Applicant may also be required to take a written Louisiana laws and regulations test.

D. ...

E. As all license applications for an embalmer and funeral director, funeral director, or funeral establishments are received, the board will process same in a timely fashion and will begin mailing the licenses to the individuals and establishments so applying no later than December 15 of each year.

F. - J. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:2820 (December 2004), LR 34:2399 (November 2008), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

### **§703. Duplicate Certificate**

A. Any person holding a certificate issued by this board and desiring a duplicate thereof, may obtain same from the secretary of the board upon application accompanied by a fee as established by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2821 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

## **Chapter 9. Internship**

### **§901. Requirements for an Embalmer and Funeral Director License**

A. Any person desiring to engage in the practice of embalming and funeral directing in this state, except those holding a temporary license, shall serve as an intern within the state of Louisiana.

1. The employment of the intern at the funeral home may be verified by the board. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

2. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

3. The board-registered supervisor shall certify or verify the cases and the contact hours that the intern worked during the month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 42:404 (March 2016), repromulgated by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

## **Chapter 11. Funeral Establishments**

### **§1107. Inspection**

A. - C.2. ...

a. The following auxiliary or branch establishments shall be subject to inspection and exempt from the above requirement except for R.S. 1107(B)(4), (5), (6), (8) and (9):

i. any establishment if it is within 40 miles radius of the main establishment and can be practically served by the licensed personnel of the main establishment;

ii. if said auxiliary or branch establishment exceeds 40 miles radius and there exists a public need for

said facilities. The nonexistence of any funeral establishment which serves the public need shall be presumptive evidence of "public need."

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:2825 (December 2004), LR 42:405 (March 2016), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

## **Chapter 20. Fees**

### **§2001. Fees**

A. The board shall require payment of fees hereunder as follows:

1. a fee of \$250 from each person applying for a funeral director license;

2. a fee of \$250 from each person applying for an embalmer and funeral director license;

3. - 12. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), amended LR 42:405 (March 2016), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:

### **Family Impact Statement**

The proposed additions and/or changes to the rules of the board, Professional and Occupations Standards for Embalmers and Funeral Directors should not have any known or foreseeable impact on any family as defined by R.S. 49:972 (D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. a family's earnings and budget;

5. the behavior and personal responsibility of children; or

6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

### **Poverty Impact Statement**

This proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rules does not impact or affect a provider. "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a provider in regard to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments to Kim W. Michel, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70002. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Kim W. Michel  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License, Internship, Inspection, Fees

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the Board of Embalmers and Funeral Directors \$800 in FY17, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The proposed rule change makes the terminology in the rules consistent with the terminology in Act 264 of the 214 Regular Session of the Louisiana Legislature. The current rule references a "combination" embalmer and funeral director license, whereas Act 264 references an embalmer and funeral director license. Therefore, the word "combination" is being removed from the rule to make it consistent with the Act. The rule also removes the requirement that an affidavit is needed to request a duplicate license.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local governmental revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rules removes the requirement that an affidavit is needed to request a duplicate license. This benefits the licensee in that he or she will no longer need to pay the cost of an affidavit to request a duplicate license.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Kim W. Michel  
Executive Director  
1704#071

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Board of Medical Examiners

Acupuncturists and Acupuncture Detoxification Specialists;  
General, Licensure and Certification and Practice;  
(LAC 46:XLV:Chapters 1, 21 and 51)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et seq.*, and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Acupuncture Practice Act, R.S. 37:1360, the board proposes to amend its rules governing the practice of acupuncture to make them consistent with Act 550 of the 2016 Regular Session of the Louisiana Legislature. The amendments also update the rules generally and conform them to current practices. Among other items, the proposed amendments: delete, revise and add new definitions (2103); convert and change the former title of licensees from a "acupuncturist's assistant" to a "licensed acupuncturist" and a "acupuncturist" to a "physician acupuncturist" wherever the terms appear in the rules; update the educational requirements for licensure eligibility (2111-2117); as prescribed by Act 550, delete the requirements for physician supervision of a licensed acupuncturist and define and provide instead for a relationship with a physician who operates a physical practice location in Louisiana to provide for referrals and follow-up care which may be necessary (2103, 5106); clarify the date for annual certificate/license renewal (2129); delete and replace outdated procedures for emergency temporary permits with those applicable to all individuals regulated by the Board (2131); and establish an acupuncture advisory committee to the Board consistent with the law (2139-2141). The amendments also update and stream line existing provisions relative to clinical practice guidelines or protocols (5106); the authority, limitations, obligations and responsibilities of licensees (5107, 5111); and repeal provisions that are no longer applicable (5109). Similar to other categories of allied health care professionals regulated by the Board, the changes include a \$50 late fee for failure to timely renew a license or certificate (187).

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

#### Subpart 1. General

#### Chapter 1. Fees and Costs

#### Subchapter H. Acupuncturists and Acupuncture Detoxification Specialists Fees

### §183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of physician acupuncturists, licensed acupuncturists and acupuncture detoxification specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1615 (August 2008), LR 43:

### §185. Certification and Licensure

A. For processing an application for certification as a physician acupuncturist or as a licensed acupuncturist, a fee of \$200 shall be payable to the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:1615 (August 2008), LR 43:

### §187. Annual Renewal

A. For processing an application for annual renewal of certification of a physician acupuncturist or a licensed acupuncturist, a fee of \$100 shall be payable to the board.

B. ...

C. In addition to the fee prescribed by §187.A, any individual who fails to renew his or her certificate or license timely shall be charged a delinquent fee of \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:1615 (August 2004), LR 43:

## Subpart 2. Licensure and Certification

### Chapter 21. Acupuncturists and Acupuncture Detoxification Specialists

#### Subchapter A. General Provisions

##### §2101. Scope of Chapter

A. The rules of this Chapter govern the certification of physician acupuncturists and licensed acupuncturists to practice acupuncture and of acupuncture detoxification specialists to practice acupuncture detoxification in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008 LR 43:

##### §2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

\*\*\*

*Acupuncture Detoxification Specialist (ADS)*—an individual who possesses current certification, duly issued by the board, to practice acupuncture detoxification under the supervision of a physician or licensed acupuncturist.

*Applicant*—a person who has applied to the board for certification as a physician acupuncturist, licensed

acupuncturist or acupuncture detoxification specialist in the state of Louisiana.

\*\*\*

*Clinical Practice Guidelines or Protocols (guidelines or protocols)*—a written set of guidelines for use by a licensed acupuncturist in the performance of patient care activities containing each of the components specified by §5106.A of these rules. Clinical practice guidelines or protocols shall be annually reviewed, updated as appropriate, and signed by the referral physician and licensed acupuncturist. The signature of the physician and LAc and date of review shall be noted on the guidelines or protocols. Guidelines or protocols shall be maintained at both the primary practice site of the referral physician and the LAc, and shall be made available for review and inspection upon request by a representative of the board.

\*\*\*

*Good Moral Character*—as applied to an applicant, means that:

a. ...

b. the applicant has not, prior to or during the pendency of an application to the board, been culpable of any act, omission, condition, or circumstance which would provide cause under §5113 of these rules for the suspension or revocation of certification as a physician acupuncturist, licensed acupuncturist, or acupuncture detoxification specialist;

c. - d. ...

*Licensed Acupuncturist (LAc)*—an individual, other than a physician possessing a current license, duly issued by the board to practice acupuncture in this state.

\*\*\*

*Physical Practice Location*—a location in this state at which a physician engages in the practice of medicine.

*Physician Acupuncturist*—a physician possessing current certification, duly issued by the board, to practice acupuncture.

*Primary Practice Site*—the location at which a physician, licensed acupuncturist or acupuncture detoxification specialist spends the majority of time in the exercise of the privileges conferred by licensure or certification issued by the board.

*Proposed Supervising Licensed Acupuncturist*—a licensed acupuncturist who has submitted to the board an application for approval as a supervising acupuncturist.

\*\*\*

*Referral Physician*—a physician who practices medicine at a physical practice location in this state, with whom a licensed acupuncturist has established a relationship to provide for referrals and any follow-up care which may be necessary,

*Supervising Licensed Acupuncturist*—a licensed acupuncturist registered with the board under this Chapter to provide supervision to an acupuncture detoxification specialist.

*Supervising Physician*—a physician registered with the board under this Chapter to supervise an acupuncture detoxification specialist.

\*\*\*

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008), LR 43:

## **Subchapter B. Physician Acupuncturist Certification**

### **§2105. Scope of Subchapter**

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as a physician acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008) LR 43:

### **§2107. Qualifications for Certification as Physician Acupuncturist**

A. To be eligible for certification as a physician acupuncturist, an applicant shall:

1. - 2. ...

3. have successfully completed:

a. not less than six months of training in acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or

3.b. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008), LR 43:

### **§2109. Application Procedure for Physician Acupuncturist**

A. Application for certification as a physician acupuncturist shall be made in a format approved by the board.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), LR 43:

## **Subchapter C. Licensed Acupuncturist and Acupuncture Detoxification Specialist Certification; Qualifications for Referral and Supervising Physicians and Licensed Acupuncturists**

### **§2111. Scope of Subchapter**

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to licensure as a licensed acupuncturist, certification as an acupuncture detoxification specialist, and those of a referral or supervising physician and licensed acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), LR 43:

### **§2113. Qualifications for Licensure as a Licensed Acupuncturist**

A. To be eligible for a license as a licensed acupuncturist, an applicant:

1. - 3. ...

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship

and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have either:

a. graduated from an acupuncture school or college accredited by the Accreditation Commission on Acupuncture and Oriental Medicine; or

b. passed the certification examination given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor; and

6. shall affirm that he or she shall establish and maintain a relationship with a physician, as defined in §5106.A of these rules, at all times while engaged in the practice of acupuncture.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant shall be upon the applicant, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34 1617 (August 2008), LR 43:

### **§2114. Qualifications for Certification as an Acupuncture Detoxification Specialist; Qualifications for Registration of Supervising Physician or Supervising Licensed Acupuncturist**

A. To be eligible for certification as an acupuncture detoxification specialist, an applicant:

1. - 3. ...

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have:

a. - b. ...

6. shall affirm that he or she shall only provide acu detox under the general supervision of a physician or a licensed acupuncturist, as defined in §5106.B of these rules.

B. - B.2. ...

C. Prior to undertaking the supervision of an acupuncture detoxification specialist a licensed acupuncturist shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising LAc shall, as of the date of the application:

1. possess a current, unrestricted license to practice as a LAc; and

2. have held certification or licensure by the board to practice as a LAc in this state for at least two years immediately preceding the date of application.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant acupuncture detoxification specialist, proposed supervising physician or proposed supervising licensed acupuncturist shall be upon the applicant, proposed supervising physician or proposed supervising licensed acupuncturist, who shall demonstrate

and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1618 (August 2008), amended, LR 43:

#### **§2115. Application Procedure for Licensed Acupuncturist**

A. Application for certification as a licensed acupuncturist shall be made in a format approved by the board.

B. An application under this Subchapter shall include:

1. ...
2. the name, primary practice site and contact information of a referral physician;
3. attestation by the applicant certifying that clinical practice guidelines or protocols conforming to the requirements of §5106.A of these rules have been prepared, dated, signed and shall be utilized by the licensed acupuncturist in the exercise of the privileges conferred by licensure under this Part and produced upon request by a representative of the board;
4. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and
5. such other information and documentation as the board may require.

C. - E. ...

F. Upon submission of a completed application, together with the documents required thereby, and the payment of the application fee, the applicant shall be required to appear before the board or its designee if the board has questions concerning the applicant's qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1618 (August 2008), LR 43:

#### **§2116. Application Procedure for Acupuncture Detoxification Specialist**

A. Application for certification as an ADS shall be made in a format approved by the board and shall include notification of intent to practice in a format approved by the board, signed by a proposed supervising physician or proposed supervising licensed acupuncturist who is registered with or has applied for registration to the board as a supervising physician or supervising licensed acupuncturist.

B. Application for certification and approval under this Subchapter shall include:

1. ...
2. attestation by the applicant certifying that the requirements of §5106.B of these rules shall be followed in the exercise of the privileges conferred by certification under this Part;
3. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and
4. such other information and documentation as the board may require.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008), LR 43:

#### **§2117. Application Procedure for Registration of Supervising Physician or Supervising Licensed Acupuncturist**

A. Application for registration of a supervising physician or supervising LAC for an acupuncture detoxification specialist, shall be made in a format approved by the board, include proof satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter, and contain such other information and documentation as the board may require.

B. ...

C. A separate fee shall not be assessed for registration or approval of a supervising physician or supervising LAC for an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008), LR 43:

#### **Subchapter D. Board Approval of Acupuncture Schools and Colleges**

##### **§2118. Scope of Subchapter**

A. The rules of this Subchapter provide the method and procedures by which acupuncture schools and colleges are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), LR 43:

##### **§2119. Applicability of Approval**

A. As provided in this Chapter the successful completion of formal training in acupuncture from a school or college approved by the board is among the alternative qualifications requisite to certification as a physician acupuncturist or licensed acupuncturist. This qualification will be deemed to be satisfied if the school or college in which the applicant received training in acupuncture was approved by the board as of the date on which the applicant completed such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), LR 43:

##### **§2121. Approval of Acupuncture Schools or Colleges**

A. A school or college providing training in acupuncture which is currently accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or its predecessor, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), shall concurrently be deemed approved by the board.

B. A school or college providing training in acupuncture which has been accorded candidacy status by ACAOM, or its predecessor, NACSCAOM, shall concurrently be deemed conditionally approved by the board, provided that board approval shall be automatically withdrawn if accreditation is

not awarded by ACAOM within three years of the date on which candidacy status was recognized.

C. The board may approve additional schools or programs providing training in acupuncture upon the request of an applicant or application by any such school or program and upon the submission to the board of documentation that such school or program provides training in acupuncture under standards substantially equivalent to those prescribed by ACAOM for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008). LR 43:

**Subchapter E. Certification, License Issuance, Approval of Registration of Supervising Physician or Supervising Licensed Acupuncturist, Termination, Renewal, Reinstatement**

**§2125. Issuance of Certification and Licensure, Approval of Registration**

A. If the qualifications, requirements, and procedures specified by this Chapter for a physician acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as a physician acupuncturist.

B. If the qualifications, requirements, and procedures specified by this Chapter for a licensed acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as a licensed acupuncturist.

C. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncture detoxification specialist are met to the satisfaction of the board, the board shall certify the applicant as an ADS. Issuance of certification to an applicant under this Chapter shall constitute approval of registration of the proposed supervising physician or proposed supervising licensed acupuncturist.

D. Although a physician or licensed acupuncturist must notify the board each time he or she intends to undertake the general supervision of an acupuncture detoxification specialist, registration with the board is only required once. Notification of supervision of a new or additional ADSs by a registered supervising physician or LAc shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with §2127.F of this Chapter.

E. The board shall maintain a list of physicians and LAcS who are registered to supervise an ADS. Each registered physician, registered LAc and ADS is responsible for updating the board within fifteen days should any of the information required and submitted change after a physician or LAc has been registered to supervise an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1620 (August 2008), LR 43:

**§2127. Expiration and Termination of Certification and Licensure; Modification; Notice of Intent**

A. Every certification and license issued by the board under this Chapter shall expire, and become null, void, and to no effect on the last day of the year in which it was issued.

B. The timely submission of an application for renewal of certification or licensure, as provided by §2129 of this Chapter, shall operate to continue the expiring certification or license in full force and effect pending issuance or denial of renewal.

C. Except as provided in Subsection D of this Section, licensure as a licensed acupuncturist whether an initial license or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the referral physician no longer possesses a current, unrestricted license to practice medicine in the state of Louisiana;

2. the referral physician, whether voluntarily or involuntarily, ceases the active practice of medicine;

3. the relationship between the licensed acupuncturist and the referral physician is terminated; or

4. the licensed acupuncturist's license expires for failure to timely renew.

D. Licensure shall not terminate upon termination of a relationship between a physician and licensed acupuncturist provided that:

1. the licensed acupuncturist currently has a referral relationship with another physician; alternatively, the LAc ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a relationship with another referral physician who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the licensed acupuncturist notifies the board of any changes in or additions to his referral physicians within 15 days of the date of such change or addition.

E. Except as provided in Subsection F of this Section, certification as an acupuncture detoxification specialist, whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician or supervising licensed acupuncturist no longer possesses a current, unrestricted license to practice as a physician or as a LAc in the state of Louisiana;

2. the supervising physician or supervising acupuncturist, whether voluntarily or involuntarily, ceases the active practice of medicine or practice as a LAc;

3. the relationship between the ADS and the supervising physician or the supervising LAc is terminated; or

4. ...

F. Certification shall not terminate upon termination of a relationship between a supervising physician or supervising LAc and ADS provided that:

1. the ADS currently has a supervisory relationship with another supervising physician or supervising LAc; alternatively, the ADS ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician or supervising LAc who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be



deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the ADS notifies the board of any changes in or additions to his supervising physicians or supervising LACs within 15 days of the date of such change or addition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), LR 43:

#### **§2129. Renewal of Certification and Licensure;**

##### **Verification of Registration**

A. Every certificate or license issued by the board under this Chapter shall be renewed annually on or before the last day of the year in which it was issued by submitting to the board a properly completed application for renewal, in a format specified by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. Each registered supervising physician and supervising licensed acupuncturist shall annually verify the accuracy of registration information on file with the board in a format approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), LR 43:

#### **Subchapter F. Restricted Licensure, Permits**

##### **§2131. Emergency Temporary Permit**

A. Acupuncture Detoxification Specialist. The board may issue an emergency temporary permit to an acupuncture detoxification specialist, valid for a period of not more than 60 days, to provide voluntary, gratuitous acu detox services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health and Hospitals ("DHH") shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board. Application for such permit shall be made in accordance with §412 of this Part and include notification of intent to practice under a supervising physician or supervising LAC in a manner approved by the board.

B. Services performed by an ADS issued a permit under this Section shall be limited to acu detox, approved by and performed under the general supervision of the supervising physician or supervising LAC. All services shall be documented by the ADS and available for review by the supervising physician or supervising LAC.

C. Licensed Acupuncturist. The board may issue an emergency temporary permit to a licensed acupuncturist to provide voluntary, gratuitous acupuncture services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, in accordance with §412 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:2057 (November 2006), amended LR 34:1621 (August 2008), LR 43:

#### **Subchapter G. Acupuncture Advisory Committee**

##### **§2139. Scope of Subchapter**

A. To assist the board on matters relative to acupuncture, an Acupuncture Advisory Committee is hereby constituted, to be composed and appointed and to have such duties and responsibilities as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 43:

##### **§2141. Constitution, Function and Responsibilities of Advisory Committee**

A. The board shall constitute and appoint an Acupuncture Advisory Committee which shall be organized and function in accordance with the provisions of this Subchapter.

B. Composition. The committee shall be comprised of five members selected by the board, four of whom shall be licensed acupuncturists and one of whom shall be a physician acupuncturist or referral physician. All members of the advisory committee will be licensed by the board and practice and reside in this state.

C. Insofar as possible or practical, in its appointment of members to the advisory committee the board shall maintain geographic diversity so as to provide representative membership on the advisory committee by individuals residing in various areas of the state.

D. Term of Service. Each member of the committee shall serve for a term of four years, or until a successor is appointed and shall be eligible for reappointment. Committee members serve at the pleasure of the board. Committee members may be reappointed to two additional terms of four years.

E. Functions of the Committee. The Committee will provide the Board with recommendations relating to:

1. applications for licensure;
2. educational requirements for licensure;
3. changes in related statutes and rules;
4. model forms and examples of clinical practice guidelines and protocols; and
5. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

F. Committee Meetings. The committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. Three members of the committee constitute a quorum. The committee shall elect from among its members a chair. The chair shall call, designate the date, time, and place of, and preside at all meetings of the committee. The chair shall record or cause to be recorded accurate and complete written minutes of all meetings of the committee and shall cause copies of the same to be provided to the board.

G. Confidentiality. In discharging the functions authorized under this Section, the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. Committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board, any confidential information or documents obtained when acting as the agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 43:

### **Subpart 3. Practice**

## **Chapter 51. Physician Acupuncturists, Licensed Acupuncturists and Acupuncture Detoxification Specialist**

### **§5101. Scope of Chapter**

A. The rules of this Chapter govern the practice of acupuncture by physician acupuncturists, licensed acupuncturist and of acupuncture detoxification by acupuncture detoxification specialists in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1622 (August 2008) LR 43:

### **§5105. Necessity of Certification or Licensure; Exemptions**

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds a current license, certificate or permit issued by the board. While any physician may practice acupuncture, enter into a relationship with a licensed acupuncturist to respond to referrals for follow up care, and may apply to the board for registration to supervise an ADS, only a physician certified by the board under this Part may hold himself or herself out as a physician acupuncturist.

B. None of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1622 (August 2008), LR 43:

### **§5106. Referral Physician; Clinical Practice Guidelines or Protocols**

A. Licensed Acupuncturist. A licensed acupuncturist shall establish and maintain a relationship with a physician who operates a physical practice location in Louisiana to provide referrals and follow-up care which may be necessary. Such a relationship shall, at a minimum, provide:

1. that the referral physician and LAc have the capability to be in contact with each other by telephone or other telecommunications device on a regular basis; and

2. clinical practice guidelines or protocols mutually agreed to by the physician and LAc that shall, at a minimum, include:

- a. the LAc's documentation requirements for each visit which shall, at a minimum, include:

- i. the symptoms reported by the patient in his or her words (may be recorded by the patient);

- ii. a treatment plan;

- iii. informed consent for the services signed by the patient;

- b. a list of conditions and events upon which the LAc is required to notify the referral physician; provided,

however, that should the LAc have need to contact the physician for any reason regarding the care of a particular patient, and the physician is not immediately available, then the service shall not be provided until the physician has been contacted;

- c. a predetermined plan to address medical emergencies *e.g.*, calling 911, referral to a hospital emergency room or a primary care provider, if needed;

- d. the requirements for referring to the physician;

- e. an acknowledgment that the physician and LAc to comply with all requirements of §5111 of this Chapter; and

- f. in the event that the LAc serves or intends to serve as a LAc for an ADS such guidelines or protocols shall include any additional instructions or procedures that are to be followed.

B. Acupuncture Detoxification Specialist. General supervision of an ADS shall not be construed to require the physical presence of a supervising physician or supervising licensed acupuncturist. General supervision shall exist when the services of an ADS:

1. are provided when the supervising physician or supervising LAc and the ADS shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise from the provision of acu detox; provided, however, that should the ADS have need to contact the supervising physician or supervising LAc for any reason regarding the administration of acu detox to a particular individual, and the supervising physician or supervising LAc is not immediately available, then the acu detox service shall not be provided until the supervising physician or supervising LAc has been contacted;

2. ...

3. are documented in written form by an ADS and made available for review by the supervising physician or supervising LAc. Such documentation shall, at a minimum, include:

- a. ...

- b. written authority signed by the patient authorizing the supervising physician or supervising LAc to review the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1622 (August 2008), amended, LR 43:

### **§5107. Authority and Limitations of Licensed Acupuncturist and Acupuncture Detoxification Specialist**

A. A licensed acupuncturist shall not:

1. practice without a relationship with a physician, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or license other than as a LAc, in the absence of such certificate, registration or license; or

3. identify himself, or permit any other person to identify him, as "Doctor" unless he designates the degree

entitling such use or render any service to a patient unless the LAc has clearly identified himself as a LAc by any method reasonably calculated to advise the patient that the licensed acupuncturist is not a licensed *physician*.

B. An acupuncture detoxification specialist shall not:

1. practice without general supervision, as defined or provided in this Chapter;

2. perform or provide acu detox other than at the addresses, locations or types of locations identified in his or her current application;

3. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than acu detox as defined in this Part. The types of services that an ADS shall not provide include, but are not limited to, counseling, nutritional assessments, biofeedback or any other acupuncture, medical or psychological service; or

4. identify himself or herself, or permit any other person to identify him or her, as "Doctor" or as "licensed acupuncturist " or render any service to a patient unless the acupuncture detoxification specialist has clearly identified himself as an acupuncture detoxification specialist by any method reasonably calculated to advise the patient that he or she is not a physician or LAc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1623 (August 2008), LR 43:

**§5109. Authority and Limitations of Supervising Physician and Supervising Acupuncturist's Assistant**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), repealed, LR 43:

**§5111. Obligations and Responsibilities**

A. A LAc shall:

1. report directly to the board, in writing, of:

a. the termination of the licensed acupuncturist's relationship with a referral physician; and

b. the retirement or withdrawal from active practice by the referral physician or LAc;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the licensed acupuncturist' and/or referral physician. This obligation shall apply equally to a referral physician;

3. insure that each individual to whom the LAc provides patient services is expressly advised and understands that the LAc is not a physician; and

4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the LAc are immediately and properly documented in written form.

B. The licensed acupuncturist and the referral physician shall bear equal and reciprocal obligations to insure strict

compliance with their respective obligations and responsibilities set forth in the rules of this Part.

C. The ADS, supervising physician or supervising LAc shall:

1. immediately notify the board, in writing, of:

a. the retirement or withdrawal from active practice by the supervising physician or supervising LAc; and

b. ...

2. comply with reasonable requests by the board for personal appearances and/or information and documentation required by this Part relative to the functions, activities, and performance of the ADS and supervising physician or supervising LAc;

3. insure that each individual to whom an ADS provides patient services is expressly advised and understands that the ADS is not a physician or a LAc; and

4. ...

D. The ADS and the supervising physician or supervising LAc shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), LR 43:

**§5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions**

A. The board may suspend, revoke, or impose probationary conditions and restrictions on any certification or license issued under this Part, upon a finding, following hearing that such individual is culpable of:

1 - 2. ...

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate or license to practice acupuncture or acupuncture detoxification;

4. - 9 ...

10. knowingly performing any act which in any way assists a person who is not certified or licensed to practice acupuncture or acupuncture detoxification, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients;

12. - 13. ...

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate or license holder's physical and/or mental fitness and ability to practice acupuncture or acupuncture detoxification with reasonable skill or safety to patients;

15. - 17. ...

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate or license suspended or revoked hereunder, require the physician acupuncturist, licensed acupuncturist or acupuncture detoxification specialist to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees and, with respect to a physician acupuncturist

or licensed acupuncturist, to pay a fine not to exceed the sum of \$5,000.

C. Any certificate or license suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate or license until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994), amended LR 34:1625 (August 2008), LR 43:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

#### **Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., May 22, 2017.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 25, 2017 at 11 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Acupuncturists and Acupuncture Detoxification Specialists; General, Licensure and Certification and Practice**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the publication fee associated with the proposed rule amendments, which are estimated to cost the Louisiana State Board of Medical Examiners \$2,214 for notice and rule promulgation, it is not anticipated that state or local governmental units will incur any other costs or savings. The proposed changes amend the Louisiana State Board of Medical Examiners' rules concerning acupuncture to comply with Act 550 of the 2016 Regular Session of the Louisiana Legislature, in addition to other technical updates. Among the changes, the proposed amendments: delete, revise and add various definitions, convert the title of licensees from a "acupuncturist's assistant" to a "licensed acupuncturist" and a "acupuncturist" to a "physician acupuncturist;" update the educational requirements for licensure eligibility for consistency with the law; delete the requirements for physician supervision of a licensed acupuncturist and define and provide instead for a relationship with a physician who operates a physical practice location in Louisiana to provide for referrals and follow-up care which may be necessary; clarify that the date for annual certificate/license renewal is the last day of the year in which it was issued; delete and replace outdated procedures for emergency temporary permits with those applicable to all individuals regulated by the Board; and establish an acupuncture advisory committee to the Board. The amendments also update and streamline existing provisions relative to clinical practice guidelines or protocols and the authority, limitations, obligations and responsibilities of licensees; and repeal provisions that are no longer applicable. Similar to other categories of professionals regulated by the Board, the changes include a late fee of \$50 for failure to timely renew a certification as a physician acupuncturist or a licensure as a licensed acupuncturist.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed amendments include a delinquent fee of \$50 for failure to renew a certificate or license timely. Based on renewal history in recent years, it is estimated that 15 individuals annually could be impacted by this change, resulting in approximately \$750 (15 x \$50 = \$750) in additional annual agency revenue. Otherwise, it is not anticipated that this change will have a material impact on revenue collections of the board.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

An individual who fails to renew a certificate or license timely will be assessed a delinquent fee of \$50. Otherwise, the proposed rule amendments makes technical changes which are not anticipated to result in costs and/or economic benefits to any person or non-governmental entity.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule amendments do not affect competition and/or employment.

Keith C. Ferdinand, M.D.  
Interim Executive Director  
1704#041

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Board of Nursing

#### Composition of Board (LAC 46:XLVII.3105)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is adding language to Chapter 31, Section 3015. The added language affects the composition of the Louisiana State Board of Nursing board members. Currently, we have nine registered nurse members and two physicians who serve as ex-officio non-voting members of the board. During the 2016 Legislative Session, the two seats that are currently held by physicians changed to allow any citizen of the United States and resident of Louisiana and who have never practiced nursing to obtain either seat. These two consumer members will be voting members of the Louisiana State Board of Nursing. In order to be in compliance, the Nurse Practice Act and the rules and regulations should have the same language, therefore we are adding additional language to the *Louisiana Administrative Code*, Title 46, Professional and Occupational Standards, Part XLVII, Nurses: Practical Nurses and Registered Nurses, Subpart 2, Registered Nurses, Chapter 31, Section 3105.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses: Practical Nurses and Registered Nurses

#### Subpart 2. Registered Nurses

#### Chapter 31. Introductory Information

#### §3105. History

A. - D. ...

E.1. The 2016 Legislature amended the Nurse Practice Act, Act 598, to remove the two ex officio, non-voting physician members and replace them with two representatives of the consumers of Louisiana from the state at-large, appointed by the governor and neither of whom shall be a nurse. The consumer members must:

- a. be a citizen of the United States and a resident of Louisiana for at least one year immediately prior to appointment;
- b. have attained the age of majority;
- c. have never engaged in any activity directly related to the practice of professional nursing; and
- d. have never been convicted of a felony.

2. The consumer members will be fully active, voting members of the Louisiana State Board of Nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:183 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended by the Department of Health, Board of Nursing, LR 43:

#### Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by

R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before May 10, 2017.

Dr. Karen C. Lyon, E.D.  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Composition of Board

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA State Board of Nursing (LSBN) \$250, it is not anticipated that state or local governmental units will incur any other costs or savings. The proposed rule changes the composition of the members of LSBN in accordance with Act 598 of the 2016 Regular Legislative Session. Before the passage of this act, the board was comprised of nine registered nurse members and two physicians to serve as ex-officio, non-voting members of the board. Act 598 maintains the nine registered nurse members and replaces the two ex-officio, non-voting physicians members with two representatives of the consumers of Louisiana, neither of whom should be a nurse. These two representatives will have voting rights.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local government revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes the composition of the board. It replaces two physician members with two consumer representatives. This is not anticipated to result in costs and/or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Karen C. Lyon, E.D.  
Executive Director  
1704#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Nursing**

**Disciplinary Proceedings; Alternative to  
Disciplinary Proceedings (LAC 46:XLVII.3405)**

The Louisiana State Board of Nursing in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918 is proposing to repeal Chapter 34, Section 3405, Subsection A, *other causes*, Subparagraph o under Title 46, Professional and Occupational Standards, Part XLVII. The request is to repeal the definition that states “failing to report to the board one's status when one performs or participates in exposure-prone procedures and is known to be a carrier of the hepatitis B virus or human immunodeficiency virus (HIV), in accordance with LAC XLVII.4005.” This specific definition is no longer relevant with the deletion of Chapter 40, Prevention of Transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HBV) and Human Immunodeficiency Virus (HIV), which required that nurses report their status. With the removal of Chapter 40, the Louisiana State Board of Nursing would not have the authority to take disciplinary action if a nurse has not reported self-exposure to an infectious disease.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered  
Nurses**

**Subpart 2. Registered Nurses**

**Chapter 34. Disciplinary Proceedings; Alternative to  
Disciplinary Proceedings**

**§3405. Definition of Terms**

A. ...

\* \* \*

*Other Causes*—includes, but is not limited to:

a - n. ...

o. Repealed.

p - x. ...

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1744-1747.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), LR 21:271 (March

1995), LR 24:1293 (July 1998), LR 31:1585 (July 2005), LR 35:1535 (August 2009), LR 36:2278 (October 2010), amended by the Department of Health, Board of Nursing, LR 43:

**Family Impact Statement**

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before May 10, 2017.

Karen C. Lyon, E.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disciplinary Proceedings;  
Alternative to Disciplinary Proceedings**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the publication fee associated with the proposed rule change, which is estimated to cost the Louisiana State Board of Nursing (LSBN) \$270, it is not anticipated that state or local governmental units will incur any other costs or savings. The proposed rule repeals Chapter 34, Section 3405, Subsection A, Other Causes, Subparagraph o under Title 46 Professional and Occupational Standards, Part XLVII. This section provides definitions for the exercise of disciplinary authority by the LSBN. The specific definition listed under Chapter 34, section 3405. A.o., which is being eliminated,

required a nurse to be held accountable for self-reporting exposure "when one performs or participates in exposure - prone procedures and is known to be a carrier" of an infectious disease.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect state or local government revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change is not anticipated to result in costs and/or economic benefits to any person or non-governmental group.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change does not affect competition and/or employment.

Karen C. Lyon, E.D.  
Executive Director  
1704#033

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Pharmacy**

**Equivalent Drug Product Interchange  
(LAC 46:LIII.2511 and 2517)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2511 and §2517 of its rules. The amended rules will implement Act 391 of the 2015 Legislature, which amended the statutory definition of the term 'equivalent drug product' and imposed certain communication requirements on pharmacists dispensing certain interchangeable biological products.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 25. Prescriptions, Drugs, and Devices**

**Subchapter B. Prescriptions**

**§2511. Prescriptions**

**A. - C.6. ...**

**D. Oral Prescriptions**

1. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist or pharmacy intern or pharmacy technician shall reduce the order to a written form prior to dispensing the medication. As an alternative to recording such prescriptions on paper forms, a pharmacist may enter the prescription information directly into the pharmacy's dispensing information system. In the event a pharmacy intern or pharmacy technician transcribes such a prescription, the supervising pharmacist shall initial or countersign the prescription form prior to processing the prescription.

**E. Electronic Prescriptions**

1. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address,

telephone number, and if for a controlled substance, the DEA registration number.

F. Exclusion. The provisions of this Section shall not apply to medical orders written for patients in facilities licensed by the Department of Health or its successor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1182.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, amended LR 41:98 (January 2015), amended LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 43:

**§2517. Prescription Dispensing**

**A. - A.6. ...**

**B. Equivalent Drug Product Interchange**

1. The pharmacist shall not select an equivalent drug product when the prescriber prohibits interchange by any one of the following methods:

a. On a prescription generated in written form, the prescriber shall handwrite a mark in a check box labeled "Dispense as Written", or the abbreviation "DAW", or both, and shall manually sign the prescription form.

i. For prescriptions reimbursable by the state Medicaid program, the prescriber shall handwrite the words "Brand Necessary" or "Brand Medically Necessary" on the prescription form or on a sheet of paper attached to the prescription form.

b. On a prescription generated in oral or verbal form, the prescriber (or the prescriber's agent) shall indicate a specific brand name drug or product is ordered by the practitioner, and the pharmacist shall note such information on the file copy of the prescription.

c. On a prescription generated in electronic form, the prescriber shall indicate "Dispense as Written", "DAW", or "Brand Medically Necessary."

2. Where the prescriber has indicated that an equivalent drug product interchange is prohibited, then a non-licensed, non-certified, or non-registered agent of the pharmacy shall not inquire as to a patient's desire for an equivalent drug product interchange.

3. In the event the prescriber has not prohibited equivalent drug product interchange in the manner described above, the pharmacist may select an equivalent drug product for dispensing, provided the patient has been informed of, and has consented to, the proposed cost saving interchange.

4. When the pharmacist selects a biological product rated as interchangeable for the product ordered by the prescriber, the dispensing pharmacist (or his designee) shall communicate to the prescriber by any means, but no later than five business days following the dispensing date, the specific product dispensed to the patient, including the name of the product and the manufacturer. However, no such communication to the prescriber is required when:

a. the prescriber prohibited interchange in the manner described above;

b. there is no product rated as interchangeable or therapeutically equivalent; or

c. the product dispensed is a refill not changed from the product dispensed on the prior filling of the prescription.

C. Unless otherwise allowed by law, drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy

after such drugs have been removed from the pharmacy premises where they were dispensed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1182.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 43:

#### **Family Impact Statement**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The effect on the stability of the family. The proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. The proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. The proposed Rule will have no effect on family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. The proposed Rule will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. The proposed Rule will have no effect on household income, assets, or financial security.

2. The effect on early childhood development and preschool through postsecondary education development. The proposed Rule will have no effect on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. The proposed Rule will have no effect on employment or workforce development.

4. The effect on taxes and tax credits. The proposed Rule will have no effect on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. The proposed Rule will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed Rule will have no effect on the total direct and indirect costs to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed Rule will have no effect on the ability of the provider to provide the same level of service.

#### **Small Business Analysis**

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule requires the dispensing pharmacist to communicate certain information to a prescriber within five days, but allows that communication to be completed in any manner; there are no reporting requirements in the proposed Rule.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The five day deadline for the required communication was imposed in the enabling legislation; therefore, the rule cannot allow for a less stringent schedule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design or operational standards required in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

#### **Public Comments**

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed rule is scheduled for Tuesday, May 30, 2017 at 9 a.m. in the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.



The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Equivalent Drug Product Interchange**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the Board of Pharmacy \$2,000, it is not anticipated that state or local governmental units will incur any other costs or savings. The proposed rule codifies Act 391 of the 2015 Regular Legislative Session and revises the definition of equivalent drug products and imposes communication requirements on pharmacists dispensing certain interchangeable biological products.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect state or local government revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule imposes certain communication requirements on pharmacists dispensing certain interchangeable biological products within five days of dispensing the product, but permits that communication to the prescriber to be accomplished by any means. Therefore, the cost of the communication is anticipated to be minimal.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will have no effect on competition or employment as it only adds a reporting requirement if certain interchangeable biological products are dispensed.

Malcolm J. Broussard  
Executive Director  
1704#039

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health Board of Pharmacy**

Pharmacy Internship  
(LAC 46:LIII.703 and 705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §703 and §705 of its rules. The amended rules will revise the professional experience requirements for pharmacy interns to qualify for pharmacist licensure.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIII. Pharmacists**

#### **Chapter 7. Pharmacy Interns**

#### **§703. Registration**

A. All pharmacy interns shall meet the following requirements for registration.

1. All pharmacy interns shall register with the board. The failure to register may result in disciplinary action by the board.

a. The applicant shall submit to the board office a properly completed application no later than the end of the first semester of the first academic year at a board-approved college of pharmacy.

b. The board may issue an Intern Registration to the applicant, upon receipt of a properly completed application, appropriate fee, and any other documentation required by the board office.

c. The Intern Registration shall expire one year after the certification of graduation from a board-approved college of pharmacy.

i. Intern registrations issued to foreign pharmacy graduates shall expire two years after the date of issue.

d. The board shall reserve the right to recall or refuse to issue any Intern Registration for cause.

2. A pharmacy intern shall wear appropriate attire and be properly identified with his name and intern status while on duty at the preceptor site.

3. A pharmacy intern shall notify the board in writing within ten days of a change of address. This notice shall include the pharmacy intern's name, registration number, and old and new addresses.

4. A pharmacy intern shall notify the board in writing within ten days of a change in location(s) of employment. This notice shall include the pharmacy intern's name and registration number, the name and address of old and new employment, and the permit numbers of those pharmacies involved.

5. The pharmacy intern shall be non-impaired.

a. The pharmacy intern is subject to confidential random drug screen testing and/or evaluations.

b. A positive drug screen may be self evident as proof of improper drug use. For the purposes of this chapter, a missed screen, a screen submitted beyond the mandated period, and/or any screen submitted indicating the sample provided is diluted, substituted, or in any way adulterated is considered to be a positive drug screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 26:2285 (October 2000), amended LR 29:2086 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 43:

#### **§705. Professional Experience**

A. All applicants for licensure by examination shall earn professional experience in the practice of pharmacy concurrent with attending or after graduation from a board-approved college of pharmacy.

B. The practical experience shall be predominantly related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under federal and state law.

1. The practical experience earned shall have been under the supervision of a pharmacist, or in the alternative, a licensed practitioner.

2. A pharmacy intern shall not practice in a permitted pharmacy site that is on probation with the board. A

pharmacy intern shall not practice under the supervision of a pharmacist or other licensed practitioner whose license is on probation with their primary professional licensing agency.

C. Professional Experience Hours. To qualify for pharmacist licensure, an intern shall supply evidence of the acquisition of at least 1,740 hours of professional experience, of which at least 1,500 hours of which shall be practical experience as described in Subsection B above.

1. The board shall award 1,740 hours credit to an intern for his successful completion of a professional experience curriculum at a board-approved college of pharmacy. The dean of the board-approved college of pharmacy shall certify the completion of this requirement in the manner prescribed by the board office.

2. In the event an applicant for pharmacist licensure by examination is unable to document the acquisition of 1,740 hours of professional experience through the successful completion of a professional experience curriculum at a board-approved college of pharmacy by means of an attestation from the dean of that college, then the applicant shall demonstrate the acquisition of at least 1,740 hours of pre-licensure practical experience in a licensed pharmacy, subject to the following limitations.

a. The pharmacy permit shall not have been on probation or otherwise restricted during the time the hours were earned.

b. The license of the pharmacist supervising the intern and signing the affidavit shall have been issued no less than two years before supervising the intern, and further, shall not have been on probation or otherwise restricted during the time the hours were earned.

3. Practical experience hours that are submitted to the board for credit consideration (other than those attested to by the dean of the college of pharmacy for the successful completion of a professional experience curriculum at a board-approved college of pharmacy) shall be listed on an affidavit form supplied by the board office, and signed by the supervising pharmacist and pharmacy intern.

a. A pharmacy intern may receive credit for a maximum of 50 hours per week.

b. A separate affidavit shall be required from each permitted pharmacy site.

c. No credit shall be awarded for hours earned within the professional experience curriculum of a board-approved college of pharmacy, nor for hours earned outside the professional experience curriculum but at the same time and location as hours earned for that professional experience curriculum.

4. Certification of Hours to and From another Jurisdiction

a. Interns enrolled in a board-approved college of pharmacy in Louisiana who earn hours of professional experience in another jurisdiction, as well as interns enrolled in a board-approved college of pharmacy in another jurisdiction who earn hours of professional experience in another jurisdiction, may transfer those hours to Louisiana under the following conditions:

i. the hours of practical experience shall be listed on an affidavit form supplied by the Louisiana Board of Pharmacy, signed by the supervising pharmacist and the intern, and submitted to the Louisiana Board of Pharmacy for consideration of credit; and

ii. the board of pharmacy in the jurisdiction where the hours were earned shall certify those hours to the Louisiana Board of Pharmacy;

iii. the Louisiana Board of Pharmacy may grant credit for all hours that comply with the Louisiana Board of Pharmacy's requirements as delineated in this Section.

b. Upon written request by the pharmacy intern, the Louisiana Board of Pharmacy may certify professional experience hours earned in Louisiana to a board of pharmacy in another jurisdiction.

5. Credited hours of experience shall expire two years after the expiration date of the Intern Registration and shall no longer be valid for licensure purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 26:2285 (October 2000), amended LR 29:2086 (October 2003), effective January 1, 2004, LR 32:636 (April 2006), amended LR 33:1130 (June 2007), amended LR 34:1409 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 43:

#### **Family Impact Statement**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency rule.

1. The effect on the stability of the family. The proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. The proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. To the extent a pharmacy intern may qualify for pharmacist licensure earlier than currently possible, the proposed Rule could improve the family earnings and budget, due to the salary differential between pharmacy interns and licensed pharmacists.

5. The effect on the behavior and personal responsibility of children. The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. The proposed Rule will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. To the extent a pharmacy intern may qualify for pharmacist licensure earlier than currently

possible, the proposed Rule could improve the household income, due to the salary differential between pharmacy interns and licensed pharmacists. With the improved income, there may be a positive effect on assets and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. The proposed Rule will have no effect on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. To the extent a pharmacy intern may qualify for pharmacist licensure earlier than currently possible, the proposed Rule may have a positive effect on employment for that individual.

4. The effect on taxes and tax credits. The proposed Rule will have no effect on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. The proposed Rule will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed Rule will have no effect on the total direct and indirect costs to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed Rule will have no effect on the ability of the provider to provide the same level of service.

#### **Small Business Analysis**

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not affect small businesses, or any of their current compliance or reporting requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule for small businesses.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no

reporting requirements in the proposed Rule for small businesses.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design or operational standards required in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

#### **Public Comments**

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Tuesday, May 30, 2017 at 9 a.m. in the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Pharmacy Internship Requirements**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the Board of Pharmacy \$2,000, it is not anticipated that state or local governmental units will incur any other costs or savings. The proposed rule revises the internship requirements imposed on pharmacy interns to qualify for a Louisiana pharmacist license. The proposed rule would (1) increase the number of hours of experience required for pharmacy interns from 1,500 to 1,740; (2) recognize the 1,740 hours of experience acquired during the professional pharmacy degree program in a college of pharmacy in satisfaction of that requirement; (3) revise the expiration date of hours of experience from one year to two years after the intern registration; (4) provide an alternative pathway to licensure for applicants unable to demonstrate hours earned during pharmacy school; and (5) apply a two year expiration date to intern registrations issued to foreign pharmacy graduates.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect state or local government revenue collections. Since the proposed rule has no impact on the registration fee charged to pharmacy interns or the pharmacist application fee, there is no impact on the Board's revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is an economic benefit to pharmacy interns who historically earned the required hours of experience after graduating from a college of pharmacy. Since the proposed rule will no longer require interns to earn hours outside their professional degree program, it is possible to qualify for a pharmacist license sooner, allowing them to earn a higher

salary as a pharmacist as opposed to the lower salary of a pharmacy intern. Therefore, this may increase the number of pharmacists in the first year, and then level off to historical levels in subsequent years. Additionally, there may be an economic benefit to pharmacy interns due to the extended expiration date of hours of experience from one year to two years after the intern registration. This allows pharmacy interns to extend the time that hours of experience earned can be used to qualify for licensure.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The ability for pharmacy interns to qualify for their pharmacist licenses earlier should have a favorable effect on their employment.

Malcolm J. Broussard  
Executive Director  
1704#040

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

##### Behavioral Health Service Providers Licensing Standards (LAC 48:I.Chapter 56)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 56 as authorized by R.S. 36:254 and R.S. 40:2151-2161. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed LAC 48:I.Chapter 74 governing the licensing standards for substance abuse/addiction treatment facilities and LAC 48:III.Chapter 5 governing the licensing standards for mental health clinics. In compliance with the directives of Act 308 of the 2013 Regular Session of the Louisiana Legislature, the department also adopted LAC 48:I.Chapter 56 to establish licensing standards for behavioral health service providers (*Louisiana Register*, Volume 41, Number 9).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing licensing standards for behavioral health service providers in order to: 1) clarify the existing provisions; 2) ensure consistency with other licensing Rules, regulations and processes; and 3) establish provisions governing partial hospitalization services for substance abuse treatment.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part 1. General Administration

#### Subpart 3. Licensing

#### Chapter 56. Behavioral Health Service Providers

#### Subchapter A. General Provisions

#### §5601. Introduction

A. Pursuant to R.S. 40:2151-2161, the Department of Health (LDH) hereby establishes licensing standards for behavioral health service (BHS) providers. The purpose of these Chapters is to provide for the development, establishment and enforcement of statewide licensing standards for the care of clients receiving services from BHS providers, to ensure the maintenance of these standards, and

to regulate conditions of these providers through a program of licensure that shall promote safe and adequate treatment of clients of BHS providers.

B. - E.11. ...

12. school-based health clinics/centers that are certified by the Department of Health, Office of Public Health, and enrolled in the Medicaid Program;

13. - 14.b. ...

c. maintains continuous, uninterrupted accreditation through an LDH authorized accreditation organization;

d. maintained continuous, uninterrupted enrollment with the statewide management organization for the LBHP, and maintains continuous, uninterrupted enrollment with Medicaid managed care entities as of December 1, 2015;

NOTE: This exemption from licensure encompasses those mental health rehabilitation providers performing mental health rehabilitation services as previously regulated by the Medicaid Mental Health Rehabilitation Program. It does not include a mental health rehabilitation provider that performs other services that were not previously regulated under the Medicaid Mental Health Rehabilitation Program (e.g. addiction services, inpatient services, residential services). If a mental health rehabilitation provider performs behavioral health services in addition to those previously regulated under the Medicaid Mental Health Rehabilitation Program, the provider shall be licensed according to these licensing rules.

15. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### §5603. Definitions

\*\*\*

*Department*—the Louisiana Department of Health (LDH) or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

\*\*\*

*DHH Authorized Accreditation Organization*  
Repealed.

\*\*\*

*Health Standards Section (HSS)*—the licensing and certification section of the Department of Health.

\*\*\*

*Intensive Outpatient Treatment Program (ASAM Level II.1)*—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

*LDH Authorized Accreditation Organization*—any organization authorized by LDH to accredit behavioral health providers.

\*\*\*

*Mental Health Clinic*—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder,

mental illness, or other psychological or psychiatric condition or problem and 24-hour emergency services that are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

*Mental Health Rehabilitation (MHR)*—an outpatient healthcare program provider of any psychosocial rehabilitation (PSR), crisis intervention (CI) and/or community psychiatric support and treatment (CPST) services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

*Mental Health Rehabilitation Services (MHRS)*—outpatient services for adults with serious mental illness and children with emotional/behavioral disorders which are medically necessary to reduce the disability resulting from mental illness and assist in the recovery and resiliency of the recipient. These services are home and community-based and are provided on an as needed basis to assist recipients in coping with the symptoms of their illness. The intent of MHRS is to minimize the disabling effects on the individual's capacity for independent living and to prevent or limit the periods of inpatient treatment.

\*\*\*

*OBH*—the LDH Office of Behavioral Health.

\*\*\*

*OPH*—the LDH Office of Public Health.

\*\*\*

*Partial Hospital Program (PHP-ASAM Level II.5)*—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of people with addiction and co-occurring conditions which do not require 24-hour care.

\*\*\*

*Registered Addiction Counselor (RAC)*—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a RAC. The RAC may not practice independently and may not render a diagnostic impression.

\*\*\*

*Secretary*—the secretary of the Department of Health or his/her designee.

\*\*\*

*Take-Home Dose(s)*—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use, including for use on Sundays, state and federal holidays, and emergency closures per LDH directive

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## Subchapter B. Licensing

### §5605. General Provisions

A. All BHS providers shall be licensed by the LDH. It shall be unlawful to operate as a BHS provider without a license issued by the department.

B. - C.1. ...

2. be valid only for the BHS provider to which it is issued and only for one geographic address of that provider approved by LDH;

C.3. - D.1. ...

a. have established operational hours for a minimum of 20 hours per week, as indicated on the license application or change notification approved by LDH;

b. have services available and the required direct care staff on duty at all times during operational hours to meet the needs of the clients;

c. be able to accept referrals during operational hours; and

d. at any time that the BHS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify the HSS no later than the next business day.

D.2. - H.2.a. ...

b. the current *Louisiana Administrative Code* (LAC) provisions;

H.2.c. - I. ...

1. The secretary of the LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the *LAC Title 51, Public Health Sanitary Code* or the OSFM.

I.2. ...

a. how client safety and quality of care are not compromised by the waiver;

I.2.b. - K.2. ...

L. An owner, officer, member, manager, administrator, clinical director, medical director, managing employee or clinical supervisor is prohibited from being a BHS provider, who has been convicted of or entered a guilty or nolo contendere plea to a felony related to:

1. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### §5607. Initial Licensure Application Process

A. Any entity, organization or person seeking to operate as a BHS provider shall submit a completed initial license application packet to the department for approval. Initial BHS provider licensure application packets are available from HSS.

B. - B.5. ...

6. a current (within 90 days prior to the submission of the application packet) statewide criminal background check, including sex offender registry status, on all owners and managing employees;

7. - 12. ...

C. Deadline for Submitting Initial Licensure Application for Unlicensed Agencies

1. Any unlicensed agency that is a provider of any psychosocial rehabilitation, crisis intervention and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

2. Any such unlicensed agency may continue to operate without a license during the licensing process until the department acts upon the initial license application and any and all appeal processes associated with the initial licensure is complete or the delay for taking an appeal has expired, whichever is later.

C.3. - G.2. ...

3. facility need approval, if applicable.

H. - I.2. ...

3. an agency that is a provider of psychosocial rehabilitation, community psychiatric support and treatment, and/or crisis intervention services.

J. Off-Sites. In order to operate an off-site, the provider shall submit:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1688 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5611. Types of Licenses**

A. - A.4.g.ii. ...

iii. facility need approval, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1690 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5613. Changes in Licensee Information or Personnel**

A. - C. ...

1. Key administrative personnel include the following:

- a. ...
- b. medical director;
- c. clinical director; and
- d. clinical supervisor.

C.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1690 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5615. Renewal of License**

A. ...

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. ...
2. a current OSFM report (for on-site and residential services);
3. a current OPH inspection report (for on-site and residential services);

B.4. - G.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1691 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5617. Deemed Status**

A. A licensed BHS provider may request deemed status once the provider becomes accredited by an LDH authorized accreditation organization, or if the applicant has achieved accreditation prior to initial licensure and becomes licensed.

B. The department may approve the deemed status request and accept accreditation in lieu of periodic licensing surveys when the provider provides documentation to the department that shows:

1. the accreditation is current and was obtained through the LDH authorized accreditation organization;

2. - 3. ...

C. If deemed status is approved, accreditation will be accepted as evidence of satisfactory compliance with this Chapter in lieu of conducting periodic relicensure surveys.

D. ...

E. The department may conduct unannounced complaint investigations on all behavioral health service providers, including those with deemed status.

1. - 7. Repealed.

F. The department may rescind deemed status and conduct a licensing survey for the following:

1. any valid complaint within the preceding 12 months;
2. an addition of services;
3. a change of ownership;
4. issuance of a provisional license in the preceding 12-month period;
5. deficiencies identified in the preceding 12-month period that placed clients at risk for harm;
6. treatment or service resulting in death or serious injury; or
7. a change in geographic location.

G. The provider shall notify HSS upon change in accreditation status within two business days.

H. The department shall rescind deemed status when the provider loses its accreditation.

I. A BHS provider approved for deemed status is subject to and shall comply with all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5621. Complaint Investigations**

A. - E. ...

1. A provider that is cited with deficiencies found during a complaint investigation has the right to request an informal reconsideration of the deficiencies. The provider's written request for an informal reconsideration shall be received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies and shall identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5623. Statement of Deficiencies**

A. - B. ...

C. Informal Dispute Resolution

1. - 2. ...

3. The BHS provider's written request for IDR shall be received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies and shall identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

4. - 6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5625. Cessation of Business**

A. Except as provided in §5677 and §5678 of these licensing regulations, a license shall be immediately null and void if a BHS provider ceases to operate.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1693 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5627. Sanctions**

A. - B. ...

C. The department may deny an initial license, revoke a license or deny a license renewal for any of the following reasons, including, but not limited to:

1. - 10.e. ...

11. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

12. ...

13. the BHS provider, an owner, officer, member, manager, administrator, medical director, clinical director, managing employee or clinical supervisor that has pled guilty or nolo contendere to a felony, or is convicted of a felony, as documented by a certified copy of the record of the court, related to:

C.13.a. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1693 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5629. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal**

A. - B. ...

1. If the BHS provider chooses to request an administrative reconsideration, the request shall:

B.1.a. - D. ...

1. If the BHS provider chooses to request an administrative appeal, the request shall be received:

D.1.a. - G. ...

H. Administrative Reconsiderations of Deficiencies Cited Resulting in the Expiration of a Provisional Initial License or Provisional License

1. ...

2. The BHS provider's request for an administrative reconsideration shall:

2.a. - 4. ...

a. To request a stay, the BHS provider shall submit its written application to the DAL at the time the administrative appeal is filed.

H.4.b. - I.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1694 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter C. Organization and Administration**

#### **§5633. Governing Body**

A. - B.4. ...

C. The responsibilities of a BHS provider's governing body, include, but are not limited to:

1. - 4. ...

5. at least once a year, formulating and reviewing, in consultation with the administrator, the clinical supervisor, clinical director and/or medical director, written policies concerning:

C.5.a. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1696 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5635. Policies and Procedures**

A. Each BHS provider shall develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that address:

1. - 3. ...

4. uniform screening for client placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;

5. - 6. ...

7. confidentiality and security of client records and files and any prohibitions related to social media;

A.8. - B.8. ...

9. procedures to ensure that the staff's credentials are verified, legal and from accredited institutions;

10. procedure to obtain statewide criminal background checks, ensuring no staff is providing unsupervised direct care prior to obtaining the results of the statewide criminal background check and addressing the results of the background check, if applicable; and

11. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the

restrictive use of social media and include, at a minimum, ensuring confidentiality of client information and preservation of client dignity and respect, including protection of client privacy and personal and property rights.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1697 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter D. Provider Operations**

##### **§5639. Quality Improvement Plan**

A. - D.2. ...

E. The QI program outcomes shall be documented and reported to the administrator, clinical director and/or medical director for action, as necessary, for any identified systemic problems.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1698 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter E. Personnel**

##### **§5643. Core Staffing Personnel Qualifications and Responsibilities**

A. - B. ...

1. a medical director who:

a. is a physician, or an advanced practice registered nurse, or a medical psychologist, with a current, unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders;

EXCEPTION: Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT), or Homebuilders® are excluded from the requirement of having a medical director. Such shall have a clinical director in accordance with §5643.B.2.

b. ...

i. ensures that the necessary medical services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the medical needs of the clients according to the current standards of medical practice;

b.iii. - c.iii. ...

iv. provides consultative and on-call coverage to ensure the health and safety of clients;

v. collaborates with the client's primary care physician and psychiatrists as needed for continuity of the client's care; and

d. may also fulfill the role of the clinical director, if the individual is qualified to perform the duties of both roles;

2. a clinical director who, for those mental health rehabilitation providers which exclusively provide the evidenced-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders®:

a. is a licensed psychiatrist, psychologist, clinical social worker, professional counselor (LPC) or marriage and family therapist (LMFT) with a minimum of two years qualifying experience in treating psychiatric disorders and

who maintains a current, unrestricted license to practice in the state of Louisiana;

b. has the following assigned responsibilities:

i. ensures that the necessary services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the clinical needs of the clients according to the current standards of clinical practice;

iii. directs the specific course of clinical treatment for all clients;

iv. reviews reports of all accidents/incidents occurring on the premises and identifies hazards to the administrator;

v. participates in the development and implementation of policies and procedures for the delivery of services;

vi. periodically reviews delivery of services to ensure care meets the current standards of practice; and

vii. participates in the development of new programs and modifications; and

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. provides consultative and on-call coverage to ensure the health and safety of clients; and

ii. collaborates with the client's primary care physician and psychiatrist as needed for continuity of the client's care.

3. an administrator who:

a. has either a bachelor's degree from an accredited college or university or one year of qualifying experience that demonstrates adequate knowledge, experience and expertise in business management;

b. is responsible for the on-site day to day operations of the BHS provider and supervision of the overall BHS provider's operation commensurate with the authority conferred by the governing body; and

c. shall not perform any programmatic duties and/or make clinical decisions unless licensed to do so;

d. - d.viii. Repealed.

4. a clinical supervisor who, with the exception of opioid treatment programs:

a. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

b. shall be on duty and on call as needed;

i. - ii. Repealed.

c. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

d. shall have the following responsibilities:

i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;

ii. serve as resource person for other professionals counseling persons with behavioral health disorders;

iii. attend and participate in care conferences, treatment planning activities, and discharge planning;

iv. provide oversight and supervision of such activities as recreation, art/music or vocational education;

v. function as client advocate in treatment decisions;



vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;

vii. provide only those services that are within the person's scope of practice; and

viii. assist the clinical director and/or medical director and governing body with the development and implementation of policies and procedures;

5. nursing staff who, for those BHS providers whose services include medication management and/or addiction treatment services,;

a. provide the nursing care and services under the direction of a registered nurse necessary to meet the needs of the clients; and

b. have a valid current nursing license in the State of Louisiana.

i. A BHS provider with clients who are unable to self-administer medication shall have a sufficient number of nurses on staff to meet the medication needs of its clients.

ii. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

C. - C.1. ...

a. The provider shall maintain a sufficient number of LMHPs, who are licensed to practice independently in the state of Louisiana to diagnose and treat mental illness and/or substance abuse, to meet the needs of the provider's clients.

1.b. - 3.d.vi. ...

vii. provide input regarding client progress to the interdisciplinary team;

C.d.viii. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter G. Services**

##### **§5655. Core Services**

A. A BHS provider shall provide the following services to its clients when needed:

1. - 7. ...

8. rehabilitation services;

9. crisis mitigation; and

10. medication management.

EXCEPTION: Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders® are excluded from the requirement of §5655.A.10.

B. A BHS provider that is a mental health rehabilitation provider exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders® shall:

1. provide services in accordance with §5655.A.1-9; and

a. - b. Repealed.

2. develop policies and procedures to ensure:

a. screening of clients for medication management needs;

b. referral to appropriate community providers for medication management including assistance to the client/family to secure services; and

c. collaboration with the client's medication management provider as needed for coordination of the client's care.

3. Repealed.

#### **C. Crisis Mitigation Services**

1. The BHS provider's crisis mitigation plan shall:

a. identify steps to take when a client suffers from a medical, psychiatric, medication or relapse crisis; and

b. specify names and telephone numbers of staff or organizations to assist clients in crisis.

2. If the provider contracts with another entity to provide crisis mitigation services, the BHS provider shall have a written contract with the entity providing the crisis mitigation services.

3. The qualified individual, whether contracted or employed by the BHS provider, shall call the client within 30 minutes of receiving notice of the client's call.

#### **D. Referral**

1. The provider shall provide:

a. appropriate resource information regarding local agencies to client and family, if applicable, upon need or request; and

b. procedures to access vocational services, community services, transitional living services and transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1704 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter I. Physical Environment**

##### **§5669. Interior Space for Residential Facilities**

A. - C.3. ...

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. contains at least 80 square feet for single bedrooms, exclusive of fixed cabinets, fixtures, furniture and equipment;

2. - 5. ...

a. Repealed.

EXCEPTION: Providers licensed as substance abuse/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been previously approved by a LDH waiver. This exception applies only to the currently licensed physical location.

D.6. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter J. Safety and Emergency Preparedness**

##### **§5675. Emergency Preparedness**

A. The BHS provider shall have written disaster and emergency preparedness plans which are based on a risk

assessment using an all hazards approach for both internal and external occurrences, developed and approved by the governing body and updated annually:

1. - 2. ...

3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

B. The BHS provider shall develop and implement policies and procedures based on the emergency plan, risk assessment and communication plan which shall be reviewed and updated at least annually. Such policies shall include a system to track on duty staff and sheltered clients, if any, during the disaster or emergency.

1. - 4. Repealed.

C. The BHS provider shall develop and maintain a disaster and emergency preparedness plan that complies with both federal and state laws. Client care shall be well-coordinated within the BHS provider, across health care providers and with state and local public health departments and emergency systems.

1. - 6. Repealed.

D. The BHS provider shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of disaster and emergency procedures. Such training shall be provided at least annually.

1. - 3. Repealed.

E. Additional Requirements. The residential facility or outpatient clinic shall:

1. post floor plans with diagrams giving clear directions on how to exit the building safely and in a timely manner at all times;

2. post emergency numbers by all telephones;

3. have a separate floor plan or diagram with designated safe zones or sheltering areas for non-fire emergencies;

4. train its employees in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for each employee and on each shift; and

5. ensure that emergency equipment and supplies are:

a. immediately available for use during emergency situations;

b. appropriate for the BHS provider's client population;

c. maintained by appropriate personnel; and

d. are specified by the medical staff and approved by the governing body for treatment of all age groups serviced by the BHS provider.

6. - 7.e. Repealed.

F. The residential BHS provider's disaster and emergency preparedness plans shall include, at a minimum:

1. in the event of a disaster or an emergency, an assessment of all clients to determine the clients:

a. who continue to require services and should remain in the care of the provider; or

b. who may be discharged to receive services from another provider;

2. the determination as to when the provider will shelter in place and when the provider will evacuate for a

disaster or emergency and the conditions that guide these determinations in accordance with local or parish OHSEP;

3. provisions for when the provider shelters-in-place that include:

a. the decision to take this action is made after reviewing all available and required information on the emergency/disaster, the provider, the provider's surroundings, and consultation with the local or parish OHSEP;

b. provisions for seven days of necessary supplies to be provided by the provider prior to the emergency, including drinking water or fluids and non-perishable food; and

c. the delivery of essential services to each client;

4. provisions for when the provider evacuates with clients:

a. the delivery of essential provisions and services to each client, whether the client is in a shelter or other location;

b. the provider's method of notifying the client's family or caregiver, including:

i. the date and approximate time that the provider or client is evacuating;

ii. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and

iii. a telephone number that the family or responsible representative may call for information regarding the client's evacuation;

c. provisions for ensuring that supplies, medications, clothing and a copy of the treatment plan are sent with the client, if the client is evacuated;

d. the procedure or methods that will be used to ensure that identification accompanies the client. The identification shall include the following information:

i. current and active diagnosis;

ii. all medication, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions; and

v. legal representative, if applicable, including contact information;

e. transportation or arrangements for transportation for an evacuation that is adequate for the current census;

5. provisions for staff to maintain continuity of care during an emergency; and

6. staff distribution and assignment of responsibilities and functions during an emergency.

G. The outpatient clinic's disaster and emergency preparedness plan shall include, at a minimum:

1. in the event of an emergency or disaster, an assessment of all clients to determine the clients:

a. who continue to require services; or

b. who may be discharged to receive services from another provider;

2. a plan for each client to continue to receive needed services during a disaster or emergency either by the provider or referral to another program; and

3. measures to be taken to locate clients after an emergency or disaster and determine the need for continued services and/or referral to other programs.

H. The provider shall:

1. follow and execute its disaster and emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency;

2. if the state, parish or local OHSEP orders a mandatory evacuation of the parish or the area in which the agency is serving, ensure that all clients are evacuated according to the provider's disaster and emergency preparedness plan;

3. review and update its disaster and emergency preparedness plan at least once a year;

4. cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and provide information as requested;

5. monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials;

6. upon request by the department, submit a copy of its emergency preparedness plan for review; and

7. upon request by the department, submit a written summary attesting how the emergency plan was followed and executed. The summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1710 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5678. Inactivation of License due to a Non-Declared Emergency or Disaster**

A. A licensed BHS provider in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed BHS provider shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the BHS provider has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed BHS provider intends to resume operation as a BHS provider in the same service area;

c. the licensed BHS provider attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed BHS provider's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

2. the licensed BHS provider continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the licensed BHS provider continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a BHS provider license, the department shall issue a notice of inactivation of license to the BHS provider.

C. Upon the provider's receipt of the department's approval of request to inactivate the provider's license, the provider shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

D. The licensed BHS provider shall resume operating as a BHS provider in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the provider requires an extension of this timeframe due to circumstances beyond the provider's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the provider's active efforts to complete construction or repairs and the reasons for request for extension of the provider's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a BHS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the BHS provider shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a BHS provider license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the provider has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership in the BHS provider shall occur until such BHS provider has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a BHS provider.

H. The provisions of this Subsection shall not apply to a BHS provider which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the BHS provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter K. Additional Requirements for Children/Adolescent Programs**

NOTE: In addition to the requirements applicable to all Behavioral Health Service providers, programs that treat children and/or adolescents shall meet the applicable requirements below.

#### **Subchapter L. Additional Requirements for Mental Health Programs**

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides mental health services shall meet the requirements of Subchapter L.

#### **§5683. Staffing Requirements**

A. Medical Director. The provider with a mental health program shall ensure that its medical director, when the provider is required to have a medical director, holds a current, unrestricted license to practice in the state of Louisiana in accordance with the practitioner's state licensing board, and meets the requirements of §5643.B.1.a Exception.

1. - 2. Repealed.

NOTE: The medical director may fulfill the role of the clinical director if the individual is qualified to perform the duties of the clinical director.

B. Clinical Director. The provider with a mental health program shall ensure that its clinical director holds a current, unrestricted license to practice in the state of Louisiana in accordance with the practitioner's state licensing board and meets the requirements of §5643.B.2.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1712 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter M. Additional Requirements for Substance Abuse/Addiction Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides substance abuse/addiction treatment services shall meet the requirements of Subchapter M.

#### **§5693. General Requirements**

A. - B.1.b. ...

c. The APRN shall have a collaborative practice agreement with a physician in accordance with the Louisiana State Board of Nursing.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5698. Partial Hospitalization Services (substance abuse only) (ASAM Level II.5)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level II.5 into this program;

a. services may be offered during the day or evening hours, before or after work or on weekends, while also allowing the patient to apply their new skills and strategies in the community;

2. maintain a minimum of 20 contact hours per week for adults, at a minimum of three days per week;

3. maintain a minimum of 20 hours per week for children/adolescents, daily or as specified in the patient's treatment plan and may occur during school hours;

a. adolescents shall have access to educational services; or

b. the provider shall be able to coordinate with the school system to ensure that the adolescent's educational needs are met; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

B. Staffing. The provider shall ensure that:

1. a licensed physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP or UP on site when clinical services are being provided;

4. each LMHP/UP caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter N. Additional Requirement for Substance Abuse/Addictive Residential Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, residential programs that treat substance abuse/addiction shall meet the applicable requirements below.

#### **§5715. Dietary Services**

A. - A.6. ...

7. all equipment and utensils used in the preparation and serving of food are properly cleaned, sanitized and stored in accordance with the LAC 51, *Public Health—Sanitary Code*; and

A.8. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1719 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter O. Additional Requirements for Opioid Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, opioid treatment programs shall also meet the requirements of Subchapter O.

#### **§5723. General Provisions**

A. - A.3.c. ...

d. adhere to all protocols established by LDH on the death of a client; and

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1720 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5729. Medications**

A. - B.4. ...

5. Exceptions to the Standard Schedule. The provider shall request and obtain approval for an exception to the standard schedule from the state opioid authority. Any exception shall be for an emergency or severe travel hardship.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1722 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe operation of facilities that provide behavioral health services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an adverse impact on small businesses, as described in R.S. 49:965.2 et seq, if the requirements of these licensing changes increase the financial burden on providers. With the resources available to the department, a regulatory flexibility analysis has been prepared in order to consider methods to minimize the potential adverse impact on small businesses. The department has determined that there is no less intrusive or less costly alternative methods of achieving the intended purpose since the changes result from legislative mandates.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an impact on the staffing level requirements or qualifications required to provide the same level of service and may increase the direct or indirect cost to the provider to provide the same level of service due to the staffing requirements. These provisions may have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 due to the licensing requirements for partial hospitalizations for substance abuse treatment.

#### **Public Hearing**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Comments**

A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Behavioral Health Service Providers—Licensing Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that \$5,076 (SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing licensing standards for behavioral health service providers in order to: 1) clarify the existing provisions; 2) ensure consistency with other licensing Rules, regulations and processes; and 3) provide for requirements for partial hospitalization services for substance abuse. These changes have no fiscal impact on state expenditures for behavioral health services, but will allow private facilities to render the partial hospitalization services. It is anticipated that the implementation of this proposed rule may have economic costs to behavioral health providers for FY 16-17, FY 17-18 and FY 18-19 with regard to the staffing requirements, but may be beneficial by providing clear and concise licensing standards.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Cecile Castello  
Health Standards Section Director  
1704#051

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Inpatient Hospital Services  
Graduate Medical Education  
Supplemental Payments Pool Elimination  
(LAC 50:V.1331)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.1331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to adopt provisions in order to continue medical education payments to state hospitals, children's specialty hospitals and acute care hospitals classified as teaching hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for inpatient hospital services (*Louisiana Register*, Volume 38, Number 11).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to eliminate the total supplemental payments pool for graduate medical education payments to qualifying acute care hospitals (*Louisiana Register*, Volume 43, Number 3). The department subsequently promulgated an Emergency Rule which amended the provisions of the March 1, 2017 Emergency Rule in order to clarify these provisions, and to correct a technical error to assure that the provisions were promulgated in a clear and concise manner (*Louisiana Register*, Volume 43, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 1, 2017 and March 2, 2017 Emergency Rules.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

##### Subpart 1. Inpatient Hospital Services

#### Chapter 13. Teaching Hospitals

##### Subchapter B. Reimbursement Methodology

#### §1331. Acute Care Hospitals

A. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Qualifying hospitals must have a direct medical education add-on component included in their prospective Medicaid per diem rates as of January 31, 2012 which was carved-out of the per diem rate reported to the MCOs.

3. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each hospital's fee-for-service prospective per diem rate. Monthly payment amounts shall be verified by the department semi-annually using reports of MCO covered days generated from encounter data. Payment adjustments or recoupments shall be made as necessary based on the MCO encounter data reported to the department.

B. - F.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:877 (May 2008), amended LR 38:2773 (November 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the elimination of supplemental Medicaid payments for the service. The Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the elimination of these payments adversely impacts the provider's financial standing.

#### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for

responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Inpatient Hospital Services Graduate Medical Education Supplemental Payments Pool Elimination**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$1,886,730 for FY 16-17, \$1,833,000 for FY 17-18 and \$1,833,000 FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and FY 18-19.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by \$3,112,730 for FY 16-17, \$3,167,000 for FY 17-18 and \$3,167,000 for FY 18-19. It is anticipated that \$270 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and FY 18-19.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the March 1, 2017 and March 2, 2017 Emergency Rules which amended the provisions governing inpatient hospital services to eliminate the total supplemental payments pool for graduate medical education payments to qualifying acute care hospitals. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for inpatient hospital services by approximately \$5,000,000 for FY 16-17, \$5,000,000 for FY 17-18 and \$5,000,000 for FY 18-19.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the elimination of payments may adversely impact the financial standing of these providers and could possibly cause a decrease in employment opportunities.

Jen Steele  
Medicaid Director  
1704#052

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Bureau of Health Services Financing**

Inpatient Hospital Services  
High Medicaid Hospitals  
Supplemental Payments Pool Reduction  
(LAC 50:V.953)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.953 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year (SFY) 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals, and changed the frequency of the payments (*Louisiana Register*, Volume 41, Number 1).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals (*Louisiana Register*, Volume 43, Number 3). This proposed Rule is being promulgated in order to continue the provisions of the March 1, 2017 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 9. Non-Rural, Non-State Hospitals**

#### **Subchapter B. Reimbursement Methodology**

#### **§953. Acute Care Hospitals**

A. - S. ...

T. Effective for dates of service on or after March 1, 2017, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to \$1,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the elimination of supplemental Medicaid payments for the service. The Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Inpatient Hospital Services High Medicaid Hospitals Supplemental Payments Pool Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$376,807 for FY 16-17, \$366,233 for FY 17-18 and \$366,233 FY 18-19. It is anticipated that \$432 (\$216 SGF and

\$216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$621,761 for FY 16-17, \$632,767 for FY 17-18 and \$632,767 for FY 18-19. It is anticipated that \$216 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the March 1, 2017 Emergency Rule which amended the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for inpatient hospital payments by approximately \$999,000 for FY 16-17, \$999,000 for FY 17-18 and \$999,000 for FY 18-19.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce inpatient hospital payments. The reduction in payments may adversely impact the financial standing of the provider and could possibly cause a reduction in employment opportunities.

Jen Steele  
Medicaid Director  
1704#053

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Bureau of Health Services Financing**

Medicaid Eligibility  
Former Foster Care Adolescents  
(LAC 50:III.2308)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.2308 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with the requirements of the Affordable Care Act of 2010 (ACA), the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to former foster care adolescents from age 18 to 26 who are transitioning out of foster care (*Louisiana Register*, Volume 40, Number 11). The ACA also provided an option approved by the U.S. Department of



Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to allow states to provide coverage to youth who were formerly Medicaid-enrolled children in foster care under the responsibility of another state. The department now proposes to amend the provisions governing former foster care adolescents in order to terminate the CMS-approved state option to provide Medicaid coverage to youth formerly enrolled in foster care under the responsibility of another state.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

#### **Chapter 23. Eligibility Groups and Medicaid Programs**

#### **§2308. Former Foster Care Adolescents**

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health implemented a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a higher age selected by the department. This eligibility group is called former foster care adolescents.

B. Eligibility Requirements. Youth who age out of foster care in Louisiana and meet all of the following requirements may receive Medicaid health care coverage under this eligibility group.

1. The youth must be from age 18 up to age 26.
2. The youth must have been in foster care and in Louisiana state custody, and receiving Medicaid upon turning age 18 or upon aging out of foster care at a higher age selected by the department.

B.3. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2260 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing the financial burden for health care costs for families of former foster care adolescents who no longer meet Medicaid eligibility requirements.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing the financial burden for former foster care

adolescents who no longer meet Medicaid eligibility requirements.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Former Foster Care Adolescents**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund costs of \$270 for FY 16-17 and programmatic savings of \$209,789 for FY 17-18 and \$222,785 FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 18-19.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by \$270 for FY 16-17 and reduce federal revenue collections by approximately \$362,468 for FY 17-18 and \$384,922 for FY 18-19. It is anticipated that \$270 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 18-19.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the coverage of former foster care adolescents in order to terminate the CMS-approved state option to provide Medicaid coverage to youth formerly enrolled in foster care under the

responsibility of another state. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for former foster care adolescents who have aged out of foster care by approximately \$572,257 for FY 17-18 and \$607,707 for FY 18-19.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele  
Medicaid Director  
1704#054

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

Professional Services Program  
Reimbursement Methodology  
Supplemental Payments  
(LAC 50:IX.15151 and 15153)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 40, Number 3).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program to revise the reimbursement methodology for supplemental payments to physicians and other professional service practitioners in order to clarify the qualifying criteria for these payments and to reformat the provisions to ensure they are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 43, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 20, 2017 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part IX. Professional Services Program

##### Subpart 15. Reimbursement

##### Chapter 151. Reimbursement Methodology

##### Subchapter F. Supplemental Payments

##### §15151. State Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, in order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. ...

2. enrolled as a Louisiana Medicaid provider; and  
3. employed by, or under contract to provide services in affiliation with, a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the bureau as an essential provider. Essential providers include:

- i. LSU School of Medicine—New Orleans;
- ii. LSU School of Medicine—Shreveport;
- iii. LSU School of Dentistry; and

iv. LSU—state-operated hospitals (Lallie Kemp Regional Medical Center and Villa Feliciana Geriatric Hospital); and

b. has furnished satisfactory data to LDH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;
5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;
15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;
19. nutritionists;
20. paramedics; and
21. doctors of chiropractic.

##### C. Payment Methodology

1. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The *community rate* is defined as the average amount that would have been paid by commercial insurers for the same services.

2. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to LDH, the default conversion factor shall equal “1”. This conversion factor shall be established annually for qualifying physicians/practitioners by:

a. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

b. dividing that amount by the respective charges for these payers.

3. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

4. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

D. Supplemental payments for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

E. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§15153. Non-State Owned or Operated Professional Services Practices**

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, in order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by, or under contract to provide services at a non-state owned or operated governmental entity and identified by the non-state owned or operated governmental entity as a physician that is employed by, or under contract to provide services at said entity.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;
5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;
15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;

19. nutritionists;

20. paramedics; and

21. doctors of chiropractic.

C. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of this Section, the *community rate* shall be defined as the rates paid by commercial payers for the same service.

D. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by LDH.

E. Payment Methodology

1. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan.

2. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result.

3. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

F. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's

ability to provide the same level of service as described in HCR 170.

### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Professional Services Program Reimbursement Methodology—Supplemental Payments

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase programmatic costs to the state by an indeterminable amount in FY 16-17, FY 17-18 and FY 18-19. There is no way to determine which professional services providers will participate in the Supplemental Payments Program; however, the state match shall be funded through an intergovernmental transfer of funds from the qualifying professional services providers. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase both self-generated and federal revenue collections by an indeterminable amount in FY 16-17, FY 17-18 and FY 18-19. It is anticipated that \$540 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Professional Services Program to revise the reimbursement methodology for supplemental payments to physicians and other professional service practitioners in order to clarify the qualifying criteria for these payments, and to reformat the provisions to ensure they are promulgated in a clear and concise manner. It is anticipated that implementation of this proposed rule will have economic benefits to professional services providers in FY 16-17, FY 17-18 and FY 18-19, and we also anticipate that this rule will increase programmatic costs to the Medicaid Program by a significant but indeterminable amount should a large number of professional services providers choose to participate.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele  
Medicaid Director  
1704#055

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Office of Public Health

Administrative Procedures  
(LAC 51:I.Chapter 1)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH) intends to amend Part I (General Provisions) of the Louisiana *Public Health—Sanitary Code* (LAC 51) regarding administrative procedures. The intent of the amendments to Part I is to set forth the manner in which service of compliance orders and other matters required to be served or delivered to the respondents thereof may be accomplished. For reasons set forth above, Part I (General Provisions) of the Louisiana state *Sanitary Code* (LAC 51) is proposed to be amended as follows.

### Title 51

## PUBLIC HEALTH—SANITARY CODE

### Part I. General Provisions

#### Chapter 1. General

#### §101. Definitions

[formerly paragraph 1:001]

A. ...

B. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

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*Department*—the Louisiana Department of Health

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*Person*—any natural person, individual, partnership, corporation, limited liability company, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(A)(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693, (October 2001), repromulgated LR 28:1209 (June 2002), amended LR 28:2528 (December 2002), LR 34:652 (April 2008), LR 38:2375 (September 2012), LR 38:2790 (November 2012), amended by the Department of Health, Office of Public Health, LR 43:

### **§109. Service of Orders, Notices, and Other Documents**

A. Whenever any provision of this code requires or authorizes service of a letter, notice, order, or other document to be made upon a person, then, in addition to any other method authorized by this Code for such service, the following shall constitute good and valid service for all purposes related to this Code:

1. service made in any manner authorized by the *Louisiana Code of Civil Procedure* or the *Louisiana Revised Statutes* of 1950;

2. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the registered agent of the person as indicated in the records of the Secretary of State;

3. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the person at his/her dwelling house or usual place of abode;

4. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the last mailing address provided in writing to the department by the person; or

5. for a person holding a permit, certificate, or license issued by the department:

a. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the mailing address provided to the department in accordance with §120 of this Part; or

b. service by e-mail sent to the e-mail address provided to the department in accordance with §120 of this Part, even if returned as undeliverable. A document served by e-mail must be in printable document format (PDF) and may be either attached, in which case the entire e-mail with the attachment cannot exceed 20 megabytes (MB), or linked within the body of the e-mail to a file sharing site from which it can be viewed or downloaded.

B. Whenever service by certified mail is authorized by this Section or any other provision of the Code, if a certified mail receipt shows that service has been refused or unclaimed, then service shall nevertheless be deemed complete and valid if the department, within 15 days of receiving the certified mail receipt so marked, sends by regular mail a copy of the letter, notice, order, or other document to the person at the address to which the certified mailing was sent. Service by such regular mail shall be deemed complete seven days after mailing.

C. A certified mailing sent in accordance with Paragraphs A.2, A.3, A.4, or Subparagraph A.5.a of this Section shall be deemed good and valid service if a signed receipt is returned to the department, regardless of whether the person to whom the mailing was addressed personally signed the return receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5(A)(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health. LR 43:

### **§120. Duty of Permit, Certificate, or License Applicant or Holder to provide the State Health Officer with both a Valid, Current Mailing and E-Mail Address**

A. No permit, certificate, or license required by this code shall be issued by the state health officer or the Louisiana

Department of Health, Office of Public Health (LDH-OPH) unless the applicant provides both a valid, current mailing and e-mail address at which the applicant can receive correspondence and official notices from LDH-OPH.

B. A holder of a permit, certificate, or license issued pursuant to this code by the state health officer or the LDH-OPH, regardless of whether such holder was the original applicant thereof, must notify LDH-OPH of any change in the mailing or e-mail address by one of the following means:

1. Written notice via U.S. mail addressed to:

ATTN: Change of Address Notification  
LDH-OPH State Health Officer  
Louisiana Department of Health  
P.O. Box 4489  
Baton Rouge, LA 70821-4489; or

2. E-mail with a subject line that reads "Change of Address Notification" sent to any e-mail address expressly designated for change of address purposes on the OPH portion of the LDH's website.

C. Any notification received by LDH-OPH of such change in mailing address or e-mail address shall not be deemed complete until such applicant or holder receives acknowledgement thereof from LDH-OPH via e-mail or U.S. mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 5.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, amendment or repeal. All Family Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No, this proposed Rule should not affect the stability of the family.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No, this proposed Rule has no effect on parents' living children.

3. Will the proposed Rule affect the functioning of the family? No, the proposed Rule will not affect the functioning of the family.

4. Will the proposed Rule affect family earnings and family budget? No, the proposed Rule will not affect family earnings and family budget.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No, the proposed Rule will not affect the behavior and personal responsibility of children.

6. Is the family or a local government able to perform the function as contained the proposed Rule? The proposed rule will have no impact ability of the family or a local government to perform the function as contained in the proposed Rule.

### **Poverty Impact Statement**

The proposed Rule should not have any foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits;
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

In accordance with the Regulatory Flexibility Act (R.S. 49:965.2-965.8), the impact of the proposed Rule on small businesses as defined in the RFA has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. Staffing level requirements or qualifications required to provide the same level of service;
2. Total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. Overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Tenney Sibley, Director, Bureau of Sanitarian Services, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, telephone: (225) 342-7550, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North Fourth Street, Room 148, Baton Rouge, LA 70802. Written comments will be accepted until 4:30 p.m., May 30, 2017.

#### **Public Hearing**

LDH-OPH will conduct a public hearing on May 30, 2017 beginning at 10 a.m. in room 173 of the Bienville Building located at 628 North Fourth Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jimmy Guidry, MD  
State Health Officer  
and  
Rebecca E. Gee, MD, MPH  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Administrative Procedures**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule amends Part I (General Provisions) of Title 51 Public Health -Sanitary Code regarding administrative procedures. The intent of the proposed amendments is to set forth the manner in which service of compliance orders and other matters required to be served or delivered to the respondents (individuals and/or business owners) thereof may be accomplished.

Proposed changes are to three sections within Chapter 1. In Section 101 are updates to definitions; section 109 adds language that specifies how service of compliance orders, notices, and other documents are to be handled between the server and the individuals and business owners; and section 120 proposes amendments regarding the provisions of valid mailing, email, and changes to these addresses.

The proposed rule is not anticipated to result in any implementation costs to the Office of Public Health or local governmental units. The proposed rule changes are estimated to cost \$1,172 for the Louisiana Department of Health (LDH), Office of Public Health (OPH) to publish the notice of intent and the final rule in the *Louisiana Register*. OPH has sufficient funds in its annual operating budget to implement the proposed rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated effects on revenue collections of state or local governmental units as a result of promulgating the proposed rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to affected individuals and/or business owners.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

M. Beth Scalco  
Assistant Secretary  
1704#065

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Office of Public Health**

#### **Dairy Products (LAC 51:VII.101)**

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part VII (Dairy Products Regulations) of Title 51. These amendments are being proposed to update the references to the most current version of the federal Food and Drug

Administration's Pasteurized Milk Ordinance (PMO) as well as revising certain references to the Code of Federal Regulations (CFR) cited in the text. Such amendments are required in order for LDH-OPH to be able to enforce the 2015 PMO regulations over the production and distribution of milk and dairy products.

#### **Title 51**

### **PUBLIC HEALTH—SANITARY CODE**

#### **Part VII. Dairy Products Regulations**

#### **Chapter 1. Milk and Dairy Products**

##### **§101. Definitions**

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

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*Code of Federal Regulations (CFR)*—except as otherwise indicated, the April 1, 2010 edition, as amended, of title 21 (21 CFR, Food and Drugs) and the January 1, 2010 edition, as amended, of Title 7 (7 CFR, Agriculture) of the document, so titled and published by the United States Office of the Federal Register, National Archives and Records Administration.

\*\*\*

*Good Manufacturing Practices (GMP)*—practices used in the manufacturing, packing, or holding of dairy products that comply with the requirements contained in this Part and in 21 CFR 110 and 21 CFR 117 as revised on April 1, 2016, when applicable.

\*\*\*

*Methods of Making Sanitation Ratings of Milk Shippers*—2007 Revision, as amended, published by the U. S. Department of Health and Human Services, Public Health Service, FDA; (Internet URL address: <http://www.fda.gov/downloads/Food/GuidanceRegulation/UCM290758.pdf>).

\*\*\*

*PMO*—the 2015 Edition, as amended, of the *Grade "A" Pasteurized Milk Ordinance*, Public Health Service/Food and Drug Administration.

\*\*\*

**AUTHORITY NOTE:** The first source of authority for promulgation of the Sanitary Code is R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40. This Part is promulgated in accordance with specific provisions of R.S. 40: 4(A)(1)(a). Also see R.S. 40:5.A.(2)(3)(5)(7) (15)(17) and R.S. 40:922.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1258 (June 2002), amended LR 37:2633 (September 2011), LR 38:2793 (November 2012), amended by the Louisiana Department of Health, Office of Public Health, LR 43:

#### **Family Impact Statement**

After considering R.S. 49:972, it is anticipated that the proposed Rule change will have no effect on the:

1. family stability;
2. authority rights of parents regarding the education and supervision of their children;
3. family function;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

After considering R.S. 49:973, it is anticipated that the proposed Rule change will have no effect on the:

1. household income, assets, and financial security;
2. early childhood or education development;
3. employment or workforce development;
4. taxes and tax credits; or
5. child and dependent care, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental, and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

After considering HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the provider to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Tenney Sibley, Director, Office of Public Health, Center for Environmental Services, P.O. Box 4489, Baton Rouge, LA 70821-4489, telephone: (225) 342-7550, or faxed to (225) 342- 7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street, Baton Rouge, LA 70802. Written comments will be accepted until 4:30 p.m., May 30, 2016.

#### **Public Hearing**

LDH-OPH will conduct a public hearing on May 30, 2017 beginning at 10 a.m. in room 173 of the Bienville Building located at 628 North Fourth Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jimmy Guidry, MD

State Health Officer

and

Rebecca E. Gee, MD, MPH

Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dairy Products**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Department of Health (LDH), Office of Public Health (OPH) proposes to amend Title 51, Part VII,

Section 101 of the Public Health Sanitary Code related to Regulation of Milk Products. The proposed rule change is essentially technical. In Section 101, the proposed rule modifies a number of definitions to specify appropriate citations of other documents, including the Code of Federal Regulations, the Pasteurized Milk Ordinance, and Methods of Making Sanitation Ratings of Milk Shippers.

It is not anticipated that the proposed action will result in any implementation costs to the state or local governmental units. The proposed rule changes will result in an estimated cost of \$373 to publish the notice of intent and final rule in the Louisiana Register. OPH has sufficient funds in its annual operating budget to implement the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated effects on revenue collections of state or local governmental units anticipated as a result of promulgating the proposed rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs or benefits to any affected persons or non-governmental groups as a result of the proposed rule change.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

M. Beth Scalco  
Assistant Secretary  
1704#067

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Office of Public Health**

Milk Products Laboratory Testing  
(LAC 51:VII.309)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to reenact and amend parts of Section 309 of Part VII (Dairy Products Regulations) of Title 51. This Rule is being proposed to eliminate a current requirement that certain testing of raw milk samples be performed at a state-run facility.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part VII. Dairy Products Regulations**

**Chapter 1. Milk and Dairy Products**

**§309. Laboratory Examination of Dairy Products  
Including Frozen Desserts and Tests for  
Environmental Pathogens**

A. The following laboratory examinations shall be performed on milk and dairy products, including frozen desserts:

1. - 2. ...

3. Sediment tests, tests for aflatoxins, beta lactams, tetracyclines, sulfonamides, tests for added water and other tests determined to be necessary by the state health officer shall be performed on raw milk samples collected from each farm bulk milk tank truck load of raw milk that unloaded at

each dairy plant, transfer station and receiving station on two consecutive days during each consecutive six month period.

4. All raw milk samples collected from each farm bulk milk tank represented on each load of raw milk that was found to have a USDA sediment standard that exceed number three or was found to be positive for any of the other tests listed in §309.A.3 above shall be tested using the same test from which the sediment result that exceed three or the positive result on the other tests were obtained on the sample from the load of raw milk.

A.5. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(2)(3)(5)(7) (15)(17) and R.S. 40:922.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 37:2651 (September 2011), amended LR 43:

**Family Impact Statement**

After considering R.S. 49:972, it is anticipated that the proposed Rule change will have no effect on the:

1. family stability;
2. authority rights of parents regarding the education and supervision of their children;
3. family function;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

After considering R.S. 49:973, it is anticipated that the proposed Rule change will have no effect on the:

1. household income, assets, and financial security;
2. early childhood or education development;
3. employment or workforce development;
4. taxes and tax credits; or
5. child and dependent care, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental, and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Provider Impact Statement**

After considering HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the provider to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments on the proposed Rule to Tenney Sibley, Director, Office of Public Health, Center for Environmental Services, P.O. Box 4489, Baton Rouge, LA 70821-4489, telephone: (225) 342-7550, or faxed to (225) 342- 7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building,



628 N. 4th Street, Baton Rouge, LA 70802. Written comments will be accepted until 4:30 p.m., May 30, 2016.

### **Public Hearing**

LDH-OPH will conduct a public hearing on May 30, 2017 beginning at 10 a.m. in room 173 of the Bienville Building located at 628 North Fourth Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jimmy Guidry, MD  
State Health Officer  
and  
Rebecca E. Gee, MD, MPH  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Milk Products Laboratory Testing**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Department of Health (LDH), Office of Public Health (OPH) proposes to amend Title 51, Part VII of the Public Health Sanitary Code related to Regulation of Milk Products.

In Section 309 of Part VII of Title 51, the proposed rule repeals language that requires certain testing on raw milk samples be conducted at a state-run facility known as the Milk and Dairy Residue Monitoring Facility, which is housed at the new LDH laboratory in Baton Rouge. The testing required by the repealed language is already being performed by industry. Therefore, requiring additional testing to be performed specifically at the state-run laboratory is redundant and unnecessary.

OPH will inspect and verify that industry continues to test raw milk samples. Any cost savings resulting from no longer testing raw milk samples will be used to provide inspection and other public health services. Approximately half of the cost savings will be used to provide inspections and the remaining cost savings will be used for sanitarian services. The proposed rule changes will result in an estimated cost of \$639 to publish the notice of intent and final rule in the Louisiana Register. OPH has sufficient funds in its annual operating budget to implement the proposed rule. It is not anticipated that the proposed action will result in any costs to local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated effects on revenue collections of local governmental units anticipated as a result of promulgating the proposed rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs or benefits to any affected persons or non-governmental groups as a result of the proposed rule change. Testing is already being performed by the industry.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

M. Beth Scalco  
Assistant Secretary  
1704#066

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health Office of Public Health**

#### **Molluscan Shellfish Reuse (LAC 51:XXIII.2101)**

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health, Office of Public Health (LDH-OPH), intends to amend Title 51, Public Health—Sanitary Code, Part XXIII (Retail Food Establishments), Chapter 21, (Equipment and Utensils), Section 2101, (General). This proposed action is necessary to assure that mollusk and crustacean shells are not used more than once as serving containers. The proposed changes are as follows.

#### **Title 51**

### **PUBLIC HEALTH—SANITARY CODE**

#### **Chapter 21. Equipment and Utensils**

#### **§2101. General**

#### **[formerly paragraph 22:13]**

A. ...

B. Mollusk and crustacean shells may not be used more than once as serving containers. This prohibition does not apply to the removal of the animal from the shell for preparation then returning the same animal to the same shell for service.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:4.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), repromulgated LR 28:1417 (June 2002), amended LR 28:2532 (December 2002), amended by the Department of Health, Office of Public Health, LR 43:

#### **Family Impact Statement**

After considering R.S. 49:972, it is anticipated that the proposed Rule change will have no effect on the:

1. family stability;
2. authority rights of parents regarding the education and supervision of their children;
3. family function;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

After considering R.S. 49:973, it is anticipated that the proposed Rule change will have no effect on the:

1. household income, assets, and financial security;
2. early childhood or education development;

3. employment or workforce development;
4. taxes and tax credits; or
5. child and dependent care, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental, and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

After considering HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the provider to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Tenney Sibley, Director, Office of Public Health, Center for Environmental Services, P.O. Box 4489, Baton Rouge, LA 70821-4489, telephone: (225) 342-7550, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street, Baton Rouge, LA 70802. Written comments will be accepted until 4:30 p.m., May 30, 2017.

#### **Public Hearing**

LDH-OPH will conduct a public hearing on May 30, 2017 beginning at 10 a.m. in room 173 of the Bienville Building located at 628 North Fourth Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jimmy Guidry, MD  
State Health Officer  
and  
Rebecca E. Gee, MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Molluscan Shellfish Reuse**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule amends Title 51 Public Health Sanitary Code, Part XXIII (Retail Food Establishments), Chapter 21, (Equipment and Utensils), Section 2101 (General). The proposed rule will assure that mollusk and crustacean shells may not be used more than once as serving containers.

The proposed amendments to the current rule will result in an estimated cost of \$515 for the Louisiana Department of Health (LDH), Office of Public Health (OPH) to publish the notice of intent and the final rule in the Louisiana Register. Otherwise, there are no implementation costs anticipated by this proposed action on state or local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated effects on revenue collections of state or local governmental units as a result of the proposed rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change prevents retail food establishments from using mollusk and crustacean shells more than once as serving containers. To the extent retail establishments were re-using shells as serving containers, this proposed rule may increase costs associated with acquiring more shells.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

M. Beth Scalco  
Assistant Secretary  
1704#068

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Office of Public Health**

#### **Notice of Parental Rights Form (LAC 48:V.12317)**

Under the authority of R.S. 40:4 and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part V (Preventive Health Services) of the Louisiana Administrative Code (LAC 48). The amendments are necessary to ensure that following a fetal demise, parents are given notice of their rights to choose to provide for the disposition of any fetal remains.

As required by Act 59 of the 2016 Regular Legislative Session, the notice of parental Rights form and procedures are to be adopted to Part V (Preventive Health Services) of the Louisiana Administrative Code (LAC 48, Public Health—General). For this reason, Part V. (Preventive Health Services) of the Louisiana Administrative Code (LAC 48:V.12317) is proposed to be amended as follows.

#### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

#### **Part V. Preventive Health Services**

#### **Subpart 45. Vital Records**

#### **Chapter 123. Preparation of Certificates**

#### **§12317. Notice of Parental Rights Form**

##### **A. Procedure of Notice of Parental Rights**

1. Prior to the final disposition of a miscarried child, but not more than twenty-four hours after the miscarriage occurs in a health facility, the facility shall notify the patient,

or if the patient is incapacitated, the spouse of the patient, both orally and in writing, of both of the following:

a. The parent's right to arrange for the final disposition of the child through the use of a parental rights form

b. The availability of a chaplain or other counseling services concerning the death of the child, if such services are provided by the health facility

**B. Notice of Parental Rights Form**

1. The notice of parental rights form shall contain, at a minimum, all of the following:

a. A definitive statement that reads as follows: "This notice of parental rights form is required to be provided to you pursuant to Louisiana law."

b. A brief description of the provisions of R.S. 40:1191 along with concise instructions for the patient to follow regarding how to properly complete the form and return it to the health facility in the event the patient desires to arrange for the final disposition of the child.

c. A concise statement of the timelines that must be satisfied in order for the patient to arrange for the final disposition of the miscarried child.

d. A listing of state, regional, or national grief counseling organizations that may provide counseling services concerning the death of a child.

2. The form should be in substantially the following form or in conformance therewith:

**Notice of Parental Rights**

Louisiana law requires this form to be given to you to inform you of your right to arrange for the final disposition of fetal remains resulting from a miscarriage. Please read carefully.

You are only required to sign and return this form if you would like to make arrangements for the burial or cremation of the fetal remains. If you do not sign and return this form the health facility will be allowed to make final disposition of the remains according to state law.

By signing and returning this form, you are choosing to make arrangements for the final disposition of the remains and agree to the following:

1. I understand that Louisiana law requires me to return this completed and signed form to the location listed below within forty-eight (48) hours of the health facility providing me the form. Failure to return the form within forty-eight hours will allow the facility to make final disposition of the remains according to state law. Return the form to:

**(Health Facility Contact Information Here)**

2. I understand that the health facility will notify me or my designee that the fetal remains may be obtained from the facility within seventy-two (72) hours from the time the facility notifies me or my designee. Failure to obtain the remains within seventy-two (72) hours will allow the hospital to make final disposition of the remains according to state law.

Please provide below your contact information and the contact information of your designee who will be taking possession of the remains.

<b>Patient/Spouse/Legal Guardian</b>	<b>Signature</b>	<b>Date</b>
--------------------------------------	------------------	-------------

3. I understand that choosing to arrange for the final disposition of the fetal remains is at my expense and it is my responsibility to ensure that the final disposition of the fetal remains is in accordance with Louisiana law.

I have read and understand the information presented to me on this form and my signature indicates my desire to arrange for the final disposition of the fetal remains.

You may inquire about the chaplain or other counseling services that may be offered by this facility. Other counseling options can be located on the Louisiana Department of Health website at <http://new.dhh.louisiana.gov/index.cfm/page/2656>.

**AUTHORITY NOTE:** Promulgated in accordance with the provisions of R.S. 40:1191.3.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Health, Office of Public Health, LR 43:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, amendment or repeal. All Family Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No, this proposed Rule should not affect the stability of the family.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No, this proposed Rule has no effect on parents' living children.

3. Will the proposed Rule affect the functioning of the family? No, the proposed Rule will not affect the functioning of the family.

4. Will the proposed Rule affect family earnings and family budget? No, the proposed Rule will not affect family earnings and family budget.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No, the proposed Rule will not affect the behavior and personal responsibility of children.

6. Is the family or a local government able to perform the function as contained the proposed Rule? The proposed Rule will have no impact ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No, the proposed Rule will not affect the household income, assets, or financial security.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No, the proposed Rule will not affect early childhood development or preschool through postsecondary education development.

3. Will the proposed Rule affect employment and workforce development? No, the proposed Rule will not affect employment or workforce development.

4. Will the proposed Rule affect taxes and tax credits? No, the proposed Rule will not affect taxes or tax credits.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? The proposed Rule will affect health care only in that it requires that the Notice of Parental Rights Form be distributed to parents by hospital staff following a fetal demise. The proposed Rule will have no effect on the

delivery of health care or health outcomes. The proposed Rule will not affect child or dependent care, housing, nutrition, transportation, or utilities assistance.

#### **Small Business Analysis**

In accordance with the Regulatory Flexibility Act, R.S. 49:965.2-965.8, the impact of the proposed Rule on small businesses as defined in the RFA has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the:

1. Staffing level requirements or qualifications required to provide the same level of service;
2. Total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. Overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 30, 2017 to Omar Khalid, Office of Public Health, P.O. Box 60630, New Orleans, LA 70160.

#### **Public Hearing**

LDH-OPH will conduct a public hearing on May 30, 2017 beginning at 10 a.m. in room 173 of the Bienville Building located at 628 North Fourth Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary  
and  
Jimmy Guidry, MD  
State Health Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Notice of Parental Rights Form**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Department of Health (LDH), Office of Public Health (OPH) proposes to enact Title 48, Part V, Subpart 45, Chapter 123, Section 12317 of the Louisiana Administrative Code related to Notice of Parental Rights for Fetal Deaths.

In Section 12317, the proposed rule adds a procedure requiring birthing facilities to provide a written notice of parental rights regarding the remains of a fetal demise.

It is not anticipated that the proposed action will result in any implementation costs to state or local governmental units. The proposed rule changes will result in an estimated cost of \$1,200 to publish the notice of intent and final rule in the Louisiana Register. OPH has sufficient funds in its annual operating budget to implement the proposed rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated effects on revenue collections of state or local governmental units anticipated as a result of promulgating the proposed rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change is not anticipated to have an impact on costs to birthing facilities. The required notice form is supplied electronically by OPH and can be printed on a single sheet of paper as needed by birthing facilities. Therefore, the facilities are not anticipated incur any expenses related to purchasing forms. There are usually under 500 qualifying fetal deaths that require reporting in Louisiana annually.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

M. Beth Scalco  
Assistant Secretary  
1704#064

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Insurance Office of the Commissioner**

#### **Regulation 46—Long-Term Care Insurance (LAC 37:XIII.Chapter 19)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend Regulation 46—Long-Term Care Insurance.

The purpose of the amendments to Regulation 46 is as follows:

1. to adopt changes made to date to the National Association of Insurance Commissioners' Long-Term Care Insurance Model Regulation ("Model Regulation"), to adopt Model Regulation definitions, and to make necessary technical amendments and redesignations to existing sections of Regulation 46 to accommodate the Model Regulation;

2. to amend §1937.B for clarity, consistent with the drafting notes of the Model Regulation;

3. to update cross-references to redesignated sections of Title 22 of the Louisiana Revised Statutes, which were redesignated pursuant to Act 415 of the 2008 Regular Session;

4. to amend §1907.A consistent with Act 811 of the 2014 Regular Session, revising terminology referring to persons with disabilities and other persons with exceptionalities.

The following table shows new placement for some of the current Sections being amended.

Proposed Placement	Current Placement
§1939. Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings (new)	-
§1941. Filing Requirement	§1939
§1943. Filing Requirements for Advertising	§1941
§1945. Standards for Marketing	§1943
§1947. Suitability	§1945
§1949. Prohibition Against Pre-Existing Conditions and Probationary Periods in Replacement Policies or Certificates	§1947
§1951. Availability of New Services or Providers (new)	-
§1953. Right to Reduce Coverage and Lower Premiums (new)	-
§1955. Nonforfeiture Benefit Requirement	§1949
§1957. Standards for Benefit Triggers	§1951
§1959. Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts	§1953
§1961. Appealing an Insurer's Determination that the Benefit Trigger Is Not Met (new)	-
§1963. Standard Format Outline of Coverage	§1955
§1965. Requirement to Deliver Shopper's Guide	§1957
§1967. Penalties	§1959
§1969. Appendices	§1961

## Title 37 INSURANCE

### Part XIII. Regulations

#### Chapter 19. Regulation 46—Long-Term Care Insurance

##### §1901. Purpose

A. The purpose of this regulation is to implement R.S. 22:1181-1191, Long-Term Care Insurance Act, to promote the public interest; to promote the availability of long-term care insurance coverage; to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices; to facilitate public understanding and comparison of long-term care insurance coverages; and to facilitate flexibility and innovation in the development of long-term care insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:462 (February 2005), amended LR 43:

##### §1905. Definitions

A. For the purpose of this regulation, the terms Applicant, Certificate, Commissioner, Group Long-Term Care Insurance, Long-Term Care Insurance, Policy, and Qualified Long-Term Care Insurance shall have the meanings set forth in R.S. 22:1184. In addition, the following definitions will apply.

*Benefit Trigger*—for the purposes of independent review, a contractual provision in the insured's policy of long-term care insurance conditioning the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. For purposes of a tax-qualified long-term care insurance contract, as defined in Section 7702B of the Internal Revenue Code of 1986, as amended, "benefit trigger" shall include a determination by a licensed health care practitioner that an insured is a chronically ill individual.

\* \* \*

*Independent Review Organization*—an organization that conducts independent reviews of long-term care benefit trigger decisions.

*Licensed Health Care Professional*—an individual qualified by education and experience in an appropriate field, to determine, by record review, an insured's actual functional or cognitive impairment.

\* \* \*

*Similar Policy Forms*—all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in R.S. 22:1184(4)(a) are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, non-institutional long-term care benefits only, or comprehensive long-term care benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:462 (February 2005), LR 43:

##### §1907. Policy Definitions

A. ...

\* \* \*

*Adult Day Care*—a program for six or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting adults who are frail, impaired and elderly, or have other disabilities and who can benefit from care in a group setting outside the home.

\* \* \*

*Home Health Care Services*—medical and nonmedical services provided in their residences to persons who are ill, have a disability, or have an infirmity. Such services may include homemaker services, assistance with activities of daily living, and respite care services.

\* \* \*

*Skilled Nursing Care, Personal Care, Home Care, Specialized Care, Assisted Living Care, and Other Services*—shall be defined in relation to the level of skill required, the nature of the care, and the setting in which care must be delivered.

\* \* \*

B. All providers of services including, but not limited to, skilled nursing facility, extended care facility, convalescent nursing home, personal care facility, specialized care providers, assisted living facility, and home care agency shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration, or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified, or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification, or registration when the state in which the service is to be furnished does

not require a provider of these services to be licensed, certified, registered, or when the state licenses, certifies, or registers the provider of services under another name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:976 (August 1997), LR 43:

#### **§1909. Policy Practices and Provisions**

A. - B.7. ...

B.8.a. Subsection 1909.B is not intended to prohibit exclusions and limitations by type of provider. However, no long-term care issuer may deny a claim because services are provided in a state other than the state of policy issued under the following conditions:

i. when the state other than the state of policy issue does not have the provider licensing, certification, or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification, or registration; or

ii. when the state other than the state of policy issue licenses, certifies, or registers the provider under another name.

b. For purposes of §1909.B.8, “state of policy issue” means the state in which the individual policy or certificate was originally issued.

9. Subsection 1909.B is not intended to prohibit territorial limitations.

C. - F.1. ...

F.2. The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under §1955, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium.

3. A reduction in benefits shall not be considered a premium change, but for purposes of the calculation required under §1955, the initial annual premium shall be based on the reduced benefits.

G. Electronic Enrollment for Group Policies

1. In the case of a group defined in R.S. 22:1184(4)(a), any requirement that a signature of an insured be obtained by a producer or insurer shall be deemed satisfied if:

G.1.a. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:462 (February 2005), amended LR 43:

#### **§1913. Required Disclosure Provisions**

A. - G. ...

H. A qualified long-term care insurance contract shall include a disclosure statement in the policy, and in the outline of coverage as contained in §1963.F.3 that the policy is intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

I. A nonqualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in §1963.F.3 that the policy is not intended to be a qualified long-term care insurance contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:978 (August 1997), LR 31:465 (February 2005), amended LR 43:

#### **§1915. Required Disclosure of Rating Practices to Consumers**

A. - A.1. ...

A.2. For certificates issued on or after the effective date of this amended regulation under a group long-term care insurance policy as defined in R.S. 22:1184(4), which policy was in force at the time this amended regulation became effective, the provisions of §1915 shall apply on the policy anniversary following February 19, 2006.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:465 (February 2005), amended LR 43:

#### **§1917. Initial Filing Requirements**

A. This Section applies to any long-term care policy issued in this state on or after August 19, 2005, except that §1917.B.2.d and §1917.B.3 apply to any long-term care policy issued in this state on or after [the date that is six months after the amendment of Regulation 46].

B. - B.2.c. ...

B.2.d. a statement that the premiums contain at least the minimum margin for moderately adverse experience defined in §1917.B.2.d.i or the specification of and justification for a lower margin as required by §1917.B.2.d.ii.

i. a composite margin shall not be less than 10 percent of lifetime claims.

ii. a composite margin that is less than 10 percent may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount, and methods to monitor developing experience that would be the basis for withdrawal of approval for such lower margins must be submitted.

iii. a composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. Such lower composite margin, if utilized, shall be justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product.

iv. a greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rates.

B.2.e.i. - B.2.e.ii. ...

B.2.f. a statement that reserve requirements have been reviewed and considered. Support for this statement shall include:

i. sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; and

ii. a statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate

distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.

3. An actuarial memorandum prepared, dated, and signed by a member of the Academy of Actuaries shall be included and shall address and support each specific item required as part of the actuarial certification and provide at least the following information:

a. an explanation of the review performed by the actuary prior to marking the statements in §1917.B.2.b and §1917.B.2.c.

b. a complete description of pricing assumptions; and

c. sources and levels of margins incorporated into the gross premiums that are the basis for the statement in §1917.B.2.a of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Deviations in margins between ages, sexes, plans, or states shall be clearly described. Deviations in margins required to be described are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales.

d. a demonstration that the gross premiums include the minimum composite margin specified in §1917.B.2.d.

C. In any review of the actuarial certification and actuarial memorandum, the commissioner may request review by an actuary with experience in long-term care pricing who is independent of the company. In the event the commissioner asks for additional information as a result of any review, the period in §1917.B does not include the period during which the insurer is preparing the requested information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:466 (February 2005), LR 43:

#### **§1919. Requirements to Offer Inflation Protection**

A. - A.3. ...

B. Where the policy is issued to a group, the required offer in §1919.A shall be made to the group policyholder; except, if the policy is issued to a group defined in R.S. 22:1184(4)(d), other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder.

C. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1156 (September 1993), amended LR 23:975 (August 1997), LR 31:467 (February 2005), amended LR 43:

#### **§1921. Prohibition against Post-Claim Underwriting (former §1915)**

A. - D. ...

E. Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated, and shall annually furnish this information to the insurance

commissioner in the format prescribed by the National Association of Insurance Commissioners in §1969, Appendix A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:467 (February 2005), amended LR 43:

#### **§1923. Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies (former §1917)**

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1158 (September 1993), amended LR 23:982 (August 1997), repromulgated LR 31:467 (February 2005), amended LR 43:

#### **§1925. Requirements for Application Forms and Replacement Coverage (former §1921)**

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing such questions may be used. With regard to a replacement policy issued to a group defined by R.S. 22:1184(4)(a), the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement:

A.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:468 (February 2005), amended LR 43:

#### **§1927. Reporting Requirements (former §1923)**

A. ...

B. Each insurer shall report annually, by June 30, the 10 percent of its producers with the greatest percentages of lapses and replacements, as measured by §1927.A (§1969, Appendix G).

C. ...

D. Every insurer shall report annually, by June 30, the number of lapsed policies as a percentage of its total annual sales and as a percentage of its total number of policies in force as of the end of the preceding calendar year (§1969, Appendix G).

E. Every insurer shall report annually, by June 30, the number of replacement policies sold as a percentage of its total annual sales and as a percentage of its total number of policies in force as of the preceding calendar year (§1969, Appendix G).

F. Every insurer shall report annually, by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied (§1969, Appendix E).

G. - H. ...

I. Annual rate certification requirements

1. Section 1927.I applies to any long-term care policy issued in this state on or after [the date that is six months after the amendment of Regulation 46].

2. The following annual submission requirements apply subsequent to initial rate filings for individual long-term care insurance policies made under §1927:

a. an actuarial certification prepared, dated, and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:

i. a statement of the sufficiency of the current premium rate schedule including:

(a). for the rate schedules currently marketed.

(i). the premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; or

(ii). if the above statement cannot be made, a statement that margins for moderately adverse experience may no longer be sufficient. In this situation, the insurer shall provide to the commissioner, within 60 days of the date the actuarial certification is submitted to the commissioner, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience so that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated. Failure to submit a plan of action to the commissioner within 60 days or to comply with the time frame stated in the plan of action constitutes grounds for the commissioner to withdraw or modify approval of the form for future sales pursuant to R.S. 22:972.

(b). for the rate schedules that are no longer marketed.

(i). that premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions; or

(ii). that the premium rate schedule may no longer be sufficient. In this situation the insurer shall provide to the commissioner, within 60 days of the date the actuarial certification is submitted to the commissioner, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience.

ii. a description of the review performed that led to the statement.

b. an actuarial memorandum dated and signed by a member of the American Academy of Actuaries who prepares the information shall be prepared to support the actuarial certification and provide at least the following information:

i. a detailed explanation of the data sources and review performed by the actuary prior to making the statement in §1927.I.2.a.

ii. a complete description of experience assumptions and their relationship to the initial pricing assumptions.

iii. a description of the credibility of the experience data.

iv. an explanation of the analysis and testing performed in determining the current presence of margins.

c. the actuarial certification required pursuant to §1927.I.2.a must be based on calendar year data and submitted annually no later than May 1st of each year starting in the second year following the year in which the initial rate schedules are first used. The actuarial memorandum required pursuant to §1927.I.2.b must be submitted at least once every three years with the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:469 (February 2005), LR 43:

**§1929. Licensing (former §1925)**

A. A producer is not authorized to market, sell, solicit, or negotiate with respect to long-term care except as authorized by R.S. 22:1543 and R.S. 22:1547(A)(1) and (2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:470 (February 2005), amended LR 43:

**§1933. Reserve Standards (former §1929)**

A. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits shall be determined in accordance with R.S. 22:751, R.S. 22:752, and R.S. 22:753. Claim reserves shall also be established in the case when the policy or rider is in claim status.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:470 (February 2005), amended LR 43:

**§1935. Loss Ratio (former §1931)**

A. This Section shall apply to all long-term care insurance policies or certificates except those covered under §1917, §1937, and §1939.

B. - C.1. ...

2. the portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of R.S. 22:936;

3. the policy meets the disclosure requirements of R.S. 22:1186(H), (I) and (J);

C.4. - C.5.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:470 (February 2005), LR 43:



### **§1937. Premium Rate Schedule Increases**

A. This Section shall apply as follows.

1. Except as provided in §1937.A.2, §1937 applies to any long-term care policy or certificate issued in this state on or after August 19, 2005 and prior to [the date that is six months after the amendment of Regulation 46].

2. For certificates issued on or after the effective date of this amended regulation under a group long-term care insurance policy as defined in R.S. 22:1184(4)(a), which policy was in force at the time this amended regulation became effective, the provisions of § 1937 shall apply on the policy anniversary following February 19, 2006.

B. An insurer shall request approval of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least 45 days prior to the notice to the policyholders and shall include:

B.1. - B.2.b. ...

c. The insurer may request a premium rate schedule increase less than what is required under §1937, and the commissioner may approve such premium rate schedule increase, without submissions of the certification in §1937.B.2.a., if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required under §1937.B.2.a., the premium rate schedule increase filing satisfies all other requirements of §1937, and is, in the opinion of the commissioner, in the best interest of policyholders.

B.3. - B.3.a.iv.(a). ...

(b). in the event the commissioner determines as provided in §1905 that offsets may exist, the insurer shall use appropriate net projected experience;

B.3.b. - B.3.c. ...

d. a statement that policy design, underwriting and claims adjudication practices have been taken into consideration;

e. in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates; and

f. a demonstration that actual and projected costs exceed costs anticipated at the time of initial pricing under moderately adverse experience and that the composite margin specified in §1917.B.2.d. is projected to be exhausted.

B.4. - C.3. ...

4. all present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as defined annually under R.S. 22:753. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

D. - I.2. ...

J. Section 1937.A through I shall not apply to policies for which the long-term care benefits provided by the policy are *incidental*, as defined in §1905, if the policy complies with all of the following provisions:

J.1. ...

2. the portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

a. R.S. 22:936;

b. R.S. 22:952; and

c. R.S. 22:914;

3. the policy meets the disclosure requirements of R.S. 22:1186(H), (I), and (J);

J.4. - J.5.h. ...

K. Sections 1937.F and 1937.H shall not apply to group insurance policies as defined in R.S. 22:1184(4)(a) where:

K.1. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:471 (February 2005), amended LR 43:

### **§1939. Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings**

A. Section 1939 shall apply as follows:

1. Except as provided in §1939.A.2, §1939 applies to any long-term care policy or certificate issued in this state on or after [the date that is six months after the amendment of Regulation 46].

2. For certificates issued on or after the effective date of this amended regulation under a group long-term care insurance policy as defined in R.S. 22:1184(4)(a), which policy was in force at the time this amended regulation became effective, the provisions of §1939 shall apply on the policy anniversary following [the date that is six months after the amendment of Regulation 46].

B. An insurer shall request approval of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least 45 days prior to the notice to the policyholders and shall include:

1. information required by §1915;

2. certification by a qualified actuary that:

a. if the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;

b. the premium rate filing is in compliance with the provisions of §1939;

c. the insurer may request a premium rate schedule increase less than what is required under §1939 and the commissioner may approve such premium rate schedule increase, without submissions of the certification in §1939.B.2.a., if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required under §1939.B.2.a., the premium rate schedule increase filing satisfies all other requirements of §1939, and is, in the opinion of the commissioner, in the best interest of policyholders.

3. an actuarial memorandum justifying the rate schedule change request that includes:

a. lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale;

i. annual values for the five years preceding and the three years following the valuation date shall be provided separately;

ii. the projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

iii. the projections shall demonstrate compliance with §1939.C; and

iv. for exceptional increases:

(a). the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(b). in the event the commissioner determines as provided in §1905 that offsets may exist, the insurer shall use appropriate net projected experience;

b. disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

c. disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

d. a statement that policy design, underwriting, and claims adjudication practices have been taken into consideration;

e. in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates; and

f. a demonstration that actual and projected costs exceed costs anticipated at the time of initial pricing under moderately adverse experience and that the composite margin specified in §1917.B.2.d. is projected to be exhausted.

4. a statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and

5. sufficient information for review and approval of the premium rate schedule increase by the commissioner.

C. All premium rate schedule increases shall be determined in accordance with the following requirements:

1. exceptional increases shall provide that 70 percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

2. premium rate schedule increases shall be calculated such that the sum of the lesser of the accumulated value of incurred claims, without the inclusion of active life reserves, or the accumulated value of historic expected claims, without the inclusion of active life reserves, plus the present value of the future expected incurred claims, projected without the inclusion of active life reserves, will not be less than the sum of the following:

a. the accumulated value of the initial earned premium times the greater of 58 percent and the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience;

b. 85 percent of the accumulated value of prior premium rate schedule increases on an earned basis;

c. the present value of future projected initial earned premiums times the greater of 58 percent and the

lifetime loss ratio consistent with the original filing including margins for moderately adverse experience; and

d. 85 percent of the present value of future projected premiums not in §1939.C.2.c. on an earned basis;

3. expected claims shall be calculated based on the original filing assumptions assumed until new assumptions are filed as part of a rate increase. New assumptions shall be used for all periods beyond each requested effective date of a rate increase. Expected claims are calculated for each calendar year based on the in-force at the beginning of the calendar year. Expected claims shall include margins for moderately adverse experience; either amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing or as modified in any rate increase filing;

4. in the event that a policy form has both exceptional and other increases, the values in §1939.C.2.b. and d. will also include 70 percent for exceptional rate increase amounts; and

5. all present and accumulated values used to determine rate increases, including the lifetime loss ratio consistent with the original filing reflecting margins for moderately adverse experience, shall use the maximum valuation interest rate for contract reserves as defined annually under R.S. 22:753. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

D. For each rate increase that is implemented, the insurer shall file for approval by the commissioner updated projections, as defined in §1939.B.3.a., annually for the next three years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in §1939.K, the projections required by §1939.D shall be provided to the policyholder in lieu of filing with the commissioner.

E. If any premium rate in the revised premium rate schedule is greater than 200 percent of the comparable rate in the initial premium schedule, lifetime projections, as defined in §1939.B.3.a., shall be filed for approval by the commissioner every five years following the end of the required period in §1939.D. For group insurance policies that meet the conditions in §1939.K, the projections required by §1939.E shall be provided to the policyholder in lieu of filing with the commissioner.

F.1. If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in §1939.C, the commissioner may require the insurer to implement any of the following:

a. premium rate schedule adjustments; or

b. other measures to reduce the difference between the projected and actual experience.

2. In determining whether the actual experience adequately matches the projected experience, consideration should be given to §1939.B.3.e, if applicable.

G. If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file a plan, subject to

commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the commissioner may impose the condition in §1939.H.

H.1. For a rate increase filing that meets the following criteria, the commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

- a. the rate increase is not the first rate increase requested for the specific policy form or forms;
- b. the rate increase is not an exceptional increase; and
- c. the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

2. In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

- a. The offer shall:
  - i. be subject to the approval of the commissioner;
  - ii. be based on actuarially sound principles, but not be based on attained age; and
  - iii. provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.
- b. The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:
  - i. the maximum rate increase determined based on the combined experience; and
  - ii. the maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10 percent.

I. If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner may, in addition to the provisions of §1939.H, prohibit the insurer from either of the following:

1. filing and marketing comparable coverage for a period of up to five years; or
2. offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

J. Section 1939.A through I shall not apply to policies for which the long-term care benefits provided by the policy are *incidental*, as defined in §1905, if the policy complies with all of the following provisions:

1. the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

2. the portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

- a. R.S. 22:936;
- b. R.S. 22:952; and
- c. R.S. 22:914;

3. the policy meets the disclosure requirements of R.S. 22:1186(H), (I), and (J);

4. the portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

- a. policy illustrations as required by Regulation 55;
- b. disclosure requirements in Regulation 28;

5. an actuarial memorandum is filed with the insurance department that includes:

- a. a description of the basis on which the long-term care rates were determined;
- b. a description of the basis for the reserves;
- c. a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
- d. a description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;
- e. a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
- f. the estimated average annual premium per policy and the average issue age;
- g. a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
- h. a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

K. Section 1939.F and H shall not apply to group insurance policies as defined in R.S. 22:1184(4)(a) where:

1. the policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or

2. the policyholder, and not the certificate holders, pays a material portion of the premium, which shall not be less than 20 percent of the total premium for the group in the calendar year prior to the year a rate increase is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§1941. Filing Requirement (former §1939)**

A. Prior to a long-term care insurer or other similar organization offering group long-term care insurance to a resident of this state, pursuant to R.S. 22:1185, it shall file with the commissioner evidence that the group meets the requirements of R.S. 22:1184(4)(d); and such insurers shall file for approval any group policy or certificate to be offered to residents of this state, regardless of from where it was issued or delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:473 (February 2005), amended LR 43:

#### **§1943. Filing Requirements for Advertising (former §1941)**

A. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), repromulgated LR 31:473 (February 2005), amended LR 43:

#### **§1945. Standards for Marketing (former §1943)**

A. - A.2. ...

3. provide copies of the disclosure forms required in §1915.D (Appendices B and F) to the applicant;

A.4. - A.7. ...

8. provide an explanation of contingent benefit upon lapse provided in §1955.D.3 and, if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying periods in §1955.D.4.

B. In addition to the practices prohibited in R.S. 22:1961 et seq., the following acts and practices are prohibited:

*Cold Lead Advertising*—making use directly, or indirectly, of any method of marketing which fails to disclose, in a conspicuous manner, that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.

*High Pressure Tactics*—employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

*Misrepresentation*—misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

*Twisting*—knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

C.1. With respect to the obligations set forth in §1945.C.1, the primary responsibility of an association, as defined in R.S. 22:1184(4)(b), when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues, in general, so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations

to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

C.2. - C.6.a.iii. ...

C.6.b. Section 1945.C.6.a.i-iii shall not apply to qualified long-term care insurance contracts.

7. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in §1945.C.

8. The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in §1945.C.

9. Failure to comply with the filing and certification requirements of §1943 constitutes an unfair trade practice in violation of R.S. 22:1961 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:473 (February 2005), amended LR 43:

#### **§1947. Suitability (former §1945)**

A. Section 1947 shall not apply to life insurance policies that accelerate benefits for long-term care.

B. - C.1.c. ...

2. The issuer, and where a producer is involved, the producer shall make reasonable efforts to obtain the information set out in §1947.C.1. The efforts shall include presentation to the applicant at, or prior to, application the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12-point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the commissioner.

C.3. ...

4. The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in §1969, Appendix B, is prohibited.

D. The issuer shall use the suitability standards it has developed, pursuant to §1947, in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

E. ...

F. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in §1969, Appendix C, in not less than 12-point type.

G. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to §1969, Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a

record of the alternative method of verification shall be made part of the applicant's file.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:475 (February 2005), amended LR 43:

**§1949. Prohibition against Pre-Existing Conditions and Probationary Periods in Replacement Policies or Certificates (former §1947)**

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), repromulgated LR 31:475 (February 2005), amended LR 43:

**§1951. Availability of New Services or Providers**

A. An insurer shall notify policyholders of the availability of a new long-term care policy series that provides coverage for new long-term care services or providers material in nature and not previously available through the insurer to the general public. The notice shall be provided within 12 months of the date that the new policy series is made available for sale in this state.

B. Notwithstanding §1951.A above, notification is not required for any policy issued prior to the effective date of §1951 or to any policyholder or certificateholder who is currently eligible for benefits, within an elimination period or on a claim, or who previously had been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.

C. The insurer shall make the new coverage available in one of the following ways:

1. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age;

2. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits shall be based on premiums paid or reserves held for the prior policy or certificate.

3. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status shall be recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost for the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or

4. By an alternative program developed by the insurer that meets the intent of §1951 if the program is filed with and approved by the commissioner.

D. An insurer is not required to notify policyholders of a new proprietary policy series created and filed for use in a limited distribution channel. For purposes of §1951.D, "limited distribution channel" means through a discrete

entity, such as a financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders that purchased such a new proprietary policy shall be notified when a new long-term care policy series that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel.

E. Policies issued pursuant to §1951 shall be considered exchanges and not replacements. These exchanges shall not be subject to §1925 and §1947 and the reporting requirements of §1927.A through E.

F. Where the policy is offered through an employer, labor organization, professional, trade, or occupational association, the required notification in §1951.A above shall be made to the offering entity. However, if the policy is issued to a group defined in R.S. 22:1184(4)(d), the notification shall be made to each certificateholder.

G. Nothing in §1951 shall prohibit an insurer from offering any policy, rider, certificate, or coverage change to any policyholder or certificateholder. However, upon request, any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.

H. Section 1951 does not apply to life insurance policies or riders containing accelerated long-term care benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

**§1953. Right to Reduce Coverage and Lower Premiums**

A.1. Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:

- a. Reducing the maximum benefits; or
- b. Reducing the daily, weekly or monthly benefit amount.

2. The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes.

3. In the event the reduction in coverage involves the reduction or elimination of the inflation protection provision, the insurer shall allow the policyholder or certificateholder to continue the benefit amount in effect at the time of the reduction.

B. The provision shall include a description of the process for requesting and implementing a reduction in coverage.

C. The premium for the reduced coverage shall:

1. Be based on the same age and underwriting class used to determine the premium for the coverage currently in force; and
2. Be consistent with the approved rate table.

D. The insurer may limit any reduction in coverage to plans or options available for that policy form or certificate and to those for which benefits will be available after consideration of claims paid or payable.

E. If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by §1911.A.1.d.

F. Section 1953 does not apply to life insurance policies or riders containing accelerated long-term care benefits.

G. The requirements of §1953.A through F shall apply to any long-term care policy issued in this state on or after [the date that is six months after the amendment of Regulation 46].

H. A premium increase notice required by §1915.E shall include:

1. An offer to reduce policy benefits provided by the current coverage consistent with the requirements of §1953;

2. A disclosure stating that all options available to the policyholder or certificateholder may not be of equal value; and

3. In the case of a partnership policy or certificate, a disclosure that some benefit reduction options may result in a loss in partnership status that may reduce policyholder or certificateholder protections.

I. The requirements of §1953.H shall apply to any rate increase implemented in this state on or after [the date that is six months after the amendment of Regulation 46].

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22: 1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

**§1955. Nonforfeiture Benefit Requirement (former §1949)**

A. Section 1955 does not apply to life insurance policies or riders containing accelerated long-term care benefits.

B. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of R.S. 22:1188:

B.1.a policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in §1955.E; and

B.2....

C. If the offer required to be made under R.S. 22:1188 is rejected, the insurer shall provide the contingent benefit upon lapse described in §1955. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in §1955.D.4 shall still apply.

D.1.After rejection of the offer required under R.S. 22:1188, for individual and group policies without nonforfeiture benefits issued after the effective date of §1955, the insurer shall provide a contingent benefit upon lapse.

D.2....

D.3.A contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 45 days prior to the due date of the premium reflecting the rate increase.

...

4.a. A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period

every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within 120 days of the due date of the premium so increased, and the ratio in §1955.D.6.b is 40 percent or more. Unless otherwise required, policyholders shall be notified at least 45 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase	
Issue Age	Percent Increase over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

b. This provision shall be in addition to the contingent benefit provided by §1955.D.3 above and, where both are triggered, the benefit provided shall be at the option of the insured.

5. On or before the effective date of a substantial premium increase as defined in §1955.D.3, the insurer shall:

a. offer to reduce policy benefits provided by the current coverage consistent with the requirements of §1953 so that required premium payments are not increased;

b. offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of §1955.E. This option may be elected at any time during the 120-day period referenced in §1955.D.3; and

c. notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in §1955.D.3 shall be deemed to be the election of the offer to convert in §1955.D.5.b above unless the automatic option in §1955.D.6.c applies.

6. On or before the effective date of a substantial premium increase as defined in §1955.D.4 above, the insurer shall:

a. offer to reduce policy benefits provided by the current coverage consistent with the requirements of §1953 so that required premium payments are not increased;

b. offer to convert the coverage to a paid-up status where the amount payable for each benefit is 90 percent of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period reference in §1955.D.4; and

c. notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in §1955.D.4 shall be deemed to be the election of the offer to convert in §1955.D.6.b above if the ratio is 40 percent or more.

7. For any long-term care policy issued in this state on or after [the date that is six months after the amendment of Regulation 46].

a. In the event the policy or certificate was issued at least 20 years prior to the effective date of the increase, a value of zero percent shall be used in place of all values in the above table; and

b. Values above 100 percent in the table in §1955.D.3 above shall be reduced to 100 percent.

E. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with §1955.D.3 but not §1955.D.4, are described in §1955.E.

1. For purposes of §1955.E, *attained age rating* is defined as a schedule of premiums, starting from the issue date, which increases with increasing age at least 1 percent per year prior to age 50, and at least 3 percent per year beyond age 50.

2. For purposes of §1955.E, the nonforfeiture benefit shall be a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in §1955.E.3.

3. The standard nonforfeiture credit will be equal to 100 percent of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of §1955.F.

E.4.a. ...

b. Notwithstanding §1955.E.4.a, for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

E.4.b.i. - F...

G. There shall be no difference in the minimum nonforfeiture benefits, as required under §1955, for group and individual policies.

H. The requirements set forth in §1955 shall be effective January 1, 1999 and shall apply as follows:

1. Except as provided in §1955.H.2 and §1955.H.3 below, the provisions of §1955 apply to any long-term care policy issued in this state on or after the effective date of this amended regulation.

2. For certificates issued on or after the effective date of §1955, under a group long-term care insurance policy, as defined in R.S. 22:1184(4)(a), which policy was in force at the time this amended regulation became effective, the provisions of §1955 shall not apply.

3. The last sentence in §1955.C and §1955.D.4 and §1955.D.6 shall apply to any long-term care insurance policy or certificate issued in this state after [the date that is six months after the amendment of Regulation 46], except new certificates on a group policy as defined in R.S. 22:1184(4)(a) after [the date that is one year after the amendment of Regulation 46].

I. Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of §1935, §1937, or §1939, whichever is applicable, treating the policy as a whole.

J. To determine whether contingent nonforfeiture upon lapse provisions are triggered under §1955.D.3 or §1955.D.4, a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the

insured when the policy was first purchased from the original insurer.

K. - K.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:475 (February 2005), LR 43:

#### **§1957. Standards for Benefit Triggers (former §1951)**

A. - B.1. ...

2. Insurers may use activities of daily living to trigger covered benefits in addition to those contained in §1957.B.1, as long as they are defined in the policy.

C. An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in §1957.A - B.

D. For purposes of §1957, the determination of a deficiency shall not be more restrictive than:

D.1. - F. ...

G. The requirements set forth in §1957 shall be effective January 1, 1999 and shall apply as follows.

1. Except as provided in §1957.G.2, the provisions of §1957 apply to a long-term care policy issued in this state on or after the effective date of the amended regulation.

2. For certificates issued on or after the effective date of §1957, under a group long-term care insurance policy, as defined in R.S. 22:1184(4)(a) that was in force at the time this amended regulation became effective, the provisions of §1957 shall not apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), repromulgated LR 31:477 (February 2005), amended LR 43:

#### **§1959. Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts (former §1953)**

A. - C. ...

D. Certifications regarding activities of daily living and cognitive impairment required pursuant to §1959.C shall be performed by the following licensed or certified professionals: physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the secretary of the treasury.

E. Certifications required pursuant to §1959.C may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the 90-day period.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:477 (February 2005), amended LR 43:

**§1961. Appealing an Insurer's Determination that the Benefit Trigger is Not Met**

A. For purposes of this §1961, "authorized representative" is authorized to act as the covered person's personal representative within the meaning of 45 CFR 164.502(g) promulgated by the Secretary of the U.S. Department of Health and Human Services under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act and means the following:

1. A person to whom a covered person has given express written consent to represent the covered person in an external review;

2. A person authorized by law to provide substituted consent for a covered person; or

3. A family member of the covered person or the covered person's treating health care professional only when the covered person is unable to provide consent.

B. If an insurer determines that the benefit trigger of a long-term care insurance policy has not been met, it shall provide a clear, written notice to the insured and the insured's authorized representation, if applicable, of all of the following;

1. The reason that the insurer determined that the insured's benefit trigger has not been met;

2. The insured's right to internal appeal in accordance with §1961.C, and the right to submit new or additional information relating to the benefit trigger denial with the appeal request; and

3. The insured's right, after exhaustion of the insurer's internal appeal process, to have the benefit trigger determination reviewed under the independent review process in accordance with §1961.D.

C. Internal Appeal. The insured or the insured's authorized representative may appeal the insurer's adverse benefit trigger determination by sending a written request to the insurer, along with any additional supporting information, within 120 calendar days after the insured and the insured's authorized representative, if applicable, receives the insurer's benefit determination notice. The internal appeal shall be considered by an individual or group of individuals designated by the insurer, provided that the individual or individuals making the internal appeal decision may not be the same individual or individuals who made the initial benefit determination. The internal appeal shall be completed and written notice of the internal appeal decision shall be sent to the insured and the insured's authorized representative, if applicable, within 30 calendar days of the insurer's receipt of all necessary information upon which a final determination can be made.

1. If the insurer's original determination is upheld upon internal appeal, the notice of the internal appeal decision shall describe any additional internal appeal rights offered by the insurer. Nothing herein shall require the insurer to offer any internal appeal rights other than those described in §1961.C.

2. If the insurer's original determination is upheld after the internal appeal process has been exhausted, and new or additional information has not been provided to the insurer, the insurer shall provide a written description of the insured's right to request an independent review of the benefit determination as described in §1961.D to the insured and the insured's authorized representative, if applicable.

3. As part of the written description of the insured's right to request an independent review, an insurer shall include the following, or substantially equivalent, language: "We have determined that the benefit eligibility criteria ("benefit trigger") of your [policy] [certificate] has not been met. You may have the right to an independent review of our decision conducted by long-term care professionals who are not associated with us. Please send a written request for independent review to us at [address]. You must inform us, in writing, of your election to have this decision reviewed within 120 days of receipt of this letter. Listed below are the names and contact information of the independent review organizations approved by your state insurance commissioner's office to conduct long-term care insurance benefit eligibility reviews. If you wish to request an independent review, please choose one of the listed organizations and include its name with your request for independent review. If you elect independent review but do not choose an independent review organization with your request, we will choose one of the independent review organizations for you and refer the request for independent review to it."

4. If the insurer does not believe the benefit trigger decision is eligible for independent review, the insurer shall inform the insured and the insured's authorized representative, if applicable, and include in the notice the reasons for its determination of independent review ineligibility.

5. The appeal process described in §1961.C is not deemed to be a "new service or provider" as referenced in §1951, Availability of New Services or Providers, and therefore does not trigger the notice requirements of §1951.

D. Independent Review of Benefit Trigger Determination.

1. Request. The insured or the insured's authorized representative may request an independent review of the insured's benefit trigger determination after the internal appeal process outlined in §1961.C has been exhausted. A written request for independent review may be made by the insured or the insured's authorized representative to the insurer within 120 calendar days after the insurer's written notice of the final internal appeal decision is received by the insured and the insured's authorized representative, if applicable.

2. Cost. The cost of the independent review shall be borne by the insurer.

3. Independent Review Process.

a. Within five business days of reviewing a written request for independent review, the insurer shall refer the request to the independent review organization that the insured or the insured's authorized representative has chosen from the list of approved organizations the insurer has provided to the insured. If the insured or the insured's authorized representative does not choose an approved independent review organization to perform the review, the insurer shall choose an independent review organization approved by the state. The insurer shall vary its selection of authorized independent review organizations on a rotating basis.

b. The insurer shall refer the request for independent review of a benefit trigger determination to an independent review organization subject to the following:



i. The independent review organization shall be on a list of approved independent review organizations that satisfy the requirements of a qualified long-term care insurance independent review organization contained in §1961;

ii. The independent review organization shall not have any conflicts of interest with the insured, the insured's authorized representative, if applicable, or the insurer; and

iii. Such review shall be limited to the information or documentation provided to and considered by the insurer in making its determination, including any information or documentation considered as part of the internal appeal process.

c. If the insured or the insured's authorized representative has new or additional information not previously provided to the insurer, whether submitted to the insurer or the independent review organization, such information shall first be considered in the internal review process, as set forth in §1961.C.

i. While this information is being reviewed by the insurer, the independent review organization shall suspend its review and the time period for review is suspended until the insurer completes its review.

ii. The insurer shall complete its review of the information and provide written notice of the results of the review to the insured and the insured's authorized representative, if applicable, and the independent review organization within five business days of the insurer's receipt of such new or additional information.

iii. If the insurer maintains its denial after such review, the independent review organization shall continue its review and render its decision within the time period specified in §1961.D.3.i below. If the insurer overturns its decision following its review, the independent review request shall be considered withdrawn.

d. The insurer shall acknowledge in writing to the insured and the insured's authorized representative, if applicable, that the request for independent review has been received, accepted, and forwarded to an independent review organization for review. Such notice will include the name and address of the independent review organization.

e. Within five business days of receipt of the request for independent review, the independent review organization assigned pursuant to §1961.D.3 shall notify the insured and the insured's authorized representative, if applicable, and the insurer that it has accepted the independent review request and identify the type of licensed health care professional assigned to the review. The assigned independent review organization shall include in the notice a statement that the insured or the insured's authorized representative may submit in writing to the independent review organization within seven days following the date of receipt of the notice of additional information and supporting documentation that the independent review organization should consider when conducting its review.

f. The independent review organization shall review all of the information and documents received pursuant to §1961.D.3.e that has been provided to the independent review organization. The independent review organization shall provide copies of any documentation or information provided by the insured or the insured's authorized representative to the insurer for its review, if it is

not part of the information or documentation submitted by the insurer to the independent review organization. The insurer shall review the information and provide its analysis of the new information in accordance with the §1961.D.3.h.

g. The insured or the insured's authorized representative may submit, at any time, new or additional information not previously provided to the insurer but pertinent to the benefit trigger denial. The insurer shall consider such information and affirm or overturn its benefit trigger determination. If the insurer affirms its benefit trigger determination, the insurer shall promptly provide such new or additional information to the independent review organization for its review, along with the insurer's analysis of such information.

h. If the insurer overturns its benefit trigger determination:

i. The insurer shall provide notice to the independent review organization and the insured and the insured's authorized representative, if applicable, of its decision; and

ii. The independent review process shall immediately cease.

i. The independent review organization shall provide to the insured and the insured's authorized representative, if applicable, and the insurer written notice of its decision, within 30 calendar days from receipt of the referral referenced in §1961.D.3.b. If the independent review organization overturns the insurer's decision, it shall:

i. Establish the precise date within the specific period of time under review that the benefit trigger was deemed to have been met;

ii. Specify the specific period of time under review for which the insurer declined eligibility but during which the independent review organization deemed the benefit trigger to have been met; and

iii. For tax-qualified long-term care insurance contracts, provide a certification (made only by a licensed health care practitioner as defined in Section 7702B(c)(4) of the Internal Revenue Code) that the insured is a chronically ill individual.

j. The decision of the independent review organization with respect to whether the insured met the benefit trigger will be final and binding on the insurer.

k. The independent review organization's determination shall be used solely to establish liability for benefit trigger decisions and is intended to be admissible in any proceeding only to the extent it establishes the eligibility of benefits payable.

l. Nothing in §1961 shall restrict the insured's right to submit a new request for benefit trigger determination after the independent review decision, should the independent review organization uphold the insurer's decision.

m. The insurance department shall utilize the criteria set forth in §1969, Appendix H, Guidelines for Long-Term Care Independent Review Entities, in certifying or approving entities to review long-term care insurance benefit trigger decisions.

n. The commissioner shall maintain and periodically update a list of approved independent review organizations.

E. Approval of Long-Term Care Insurance Independent Review Organizations. The commissioner shall approve a qualified long-term care insurance independent review organization, provided the independent review organization demonstrates to the satisfaction of the commissioner that it is unbiased and meets the following qualifications:

1. Have on staff, or contract with, a qualified and licensed health care professional in an appropriate field for determining an insured's functional or cognitive impairment (e.g. physical therapy, occupational therapy, neurology, physical medicine, and rehabilitation) to conduct the review.

2. Neither it nor any of its licensed health care professionals may, in any manner, be related to or affiliated with an entity that previously provided medical care to the insured.

3. Utilize a licensed health care professional who is not an employee of the insurer or related in any manner to the insured.

4. Neither it nor its licensed health care professional who conducts the reviews may receive compensation of any type that is dependent on the outcome of the review.

5. Be state approved to conduct such reviews if the state requires such approvals.

6. Provide a description of the fees to be charged by it for independent reviews of a long-term care insurance benefit trigger decision. Such fees shall be reasonable and customary for the type of long-term care insurance benefit trigger decision under review.

7. Provide the name of the medical director or health care professional responsible for the supervision and oversight of the independent review procedure.

8. Have on staff, or contract with, a licensed health care practitioner, as defined by Section 7702B(c)(4) of the Internal Revenue Code of 1986, as amended, who is qualified to certify that an individual is chronically ill for purposes of a qualified long-term care insurance contract.

F. Maintenance of Records and Reporting Obligations by Independent Review Organizations. Each approved independent review organization shall comply with the following:

1. Maintain written documentation establishing the date it receives a request for independent review, the date each review is conducted, the resolution, the date such resolution was communicated to the insurer and the insured, the name and professional status of the reviewer conducting such review in an easily accessible and retrievable format for the year in which it received the information, plus two calendar years.

2. Be able to document measures taken to appropriately safeguard the confidentiality of such records and prevent unauthorized use and disclosures in accordance with applicable federal and state law.

3. Report annually to the commissioner, by June 30, in the aggregate and for each long-term care insurer all of the following:

a. The total number of requests received for independent review of long-term care benefit trigger decisions;

b. The total number of reviews conducted and the resolution of such reviews (i.e., the number of reviews which upheld or overturned the long-term care insurer's determination that the benefit trigger was not met);

c. The number of reviews withdrawn prior to review;

d. The percentage of reviews conducted within the prescribed timeframe set forth in §1961.D.3.i; and

e. Such other information the commissioner may require.

4. Report immediately to the commissioner any change in its status which would cause it to cease meeting any of the qualifications required of an independent review organization performing independent reviews of long-term care benefit trigger decisions.

G. Additional Rights. Nothing contained in this Section shall limit the ability of an insurer to assert any rights an insurer may have under the policy related to:

1. An insured's misrepresentation;

2. Changes in the insured's benefit eligibility; and

3. Terms, conditions, and exclusions of the policy, other than failure to meet the benefit trigger.

H. Applicability. The requirements of §1961 apply to a benefit trigger request made under a long-term care insurance policy on or after [the date that is 12 months after the amendment of Regulation 46].

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§1963. Standard Format Outline of Coverage (former §1955)**

A. Section 1963 of the regulation implements, interprets, and makes specific the provisions of R.S. 22:1186(G) in prescribing a standard format and the content of an outline of coverage.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:478 (February 2005), LR 43:

#### **§1965. Requirement to Deliver Shopper's Guide (former §1957)**

A. ...

B. Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under R.S. 22:1186(I).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:480 (February 2005), amended LR 43:

#### **§1967. Penalties (former §1959)**

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), LR 31:480 (February 2005), amended LR 43:

#### **§1969. Appendices (former 1961)**

A. ...

B. Appendix B

## LONG-TERM CARE INSURANCE PERSONAL WORKSHEET

### Questions Related to Your Income

[☐ Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 20%?]

### C. Appendix C

#### THINGS YOU SHOULD KNOW BEFORE YOU BUY LONG-TERM CARE INSURANCE

- Facilities • Some long-term care insurance contracts provide for benefit payments in certain facilities only if they are licensed or certified, such as in assisted living centers. However, not all states regulate these facilities in the same way. Also, many people move into a different state from where they purchased their long-term care insurance policy. Read the policy carefully to determine what types of facilities qualify for benefit payments, and to determine that payment for a covered service will be made if you move to a state that has a different licensing scheme for facilities than the one in which you purchased the policy.

### D. ...

### E. Appendix E

#### CLAIMS DENIAL REPORTING FORM LONG-TERM CARE INSURANCE

##### Instructions

The purpose of this form is to report all long-term care claim denials under in force long-term care insurance policies. Indicate the manner of reporting by checking one of the boxes below:

- ☐ Per claimant – counts each individual who makes one or a series of claim requests.
- ☐ Per transaction – counts each claim payment request.

"Denied" means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition. It does not include a request for payment that is in excess of the applicable contractual limits.

##### Inforce Data

	State Data	Nationwide Data <sup>1</sup>
Total Number of Inforce Policies [Certificates] as of December 31st		

##### Claims & Denial Data

### F. Appendix F

[The following contingent nonforfeiture disclosure need only be included for those limited pay policies to which §1955.D.4 and §1955.D.6 are applicable.

In addition to the contingent nonforfeiture benefits described above, the following reduced "paid-up" contingent nonforfeiture benefit is an option in all policies that have a fixed or limited

premium payment period, even if you selected a nonforfeiture benefit when you bought your policy. If both the reduced "paid-up" benefit AND the contingent benefit described above are triggered by the same rate increase, you can choose either of the two benefits.

You are eligible for the reduced "paid-up" contingent nonforfeiture benefit when all three conditions shown below are met:

1. The premium you are required to pay after the increase exceeds your original premium by the same percentage or more shown in the chart below;

Triggers for a Substantial Premium Increase	
Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

2. You stop paying your premiums within 120 days of when the premium increase took effect; AND

3. The ratio of the number of months you already paid premiums is 40% or more than the number of months you originally agreed to pay.

If you exercise this option your coverage will be converted to reduced "paid-up" status. That means there will be no additional premiums required. Your benefits will change in the following ways:

- a. The total lifetime amount of benefits your reduced paid up policy will provide can be determined by multiplying 90% of the lifetime benefit amount at the time the policy becomes paid up by the ratio of the number of months you already paid premiums to the number of months you agreed to pay them.

- b. The daily benefit amounts you purchased will also be adjusted by the same ratio.

If you purchased lifetime benefits, only the daily benefit amounts you purchased will be adjusted by the applicable ratio.

##### Example:

You bought the policy at age 65 with an annual premium payable for 10 years.

In the sixth year, you receive a rate increase of 35% and you decide to stop paying premiums.

Because you have already paid 50% of your total premium payments and that is more than the 40% ratio, your "paid-up" policy benefits are .45 (.90 times .50) times the total benefit amount that was in effect when you stopped paying your premiums. If you purchased inflation protection, it will not continue to apply to the benefits in the reduced "paid-up" policy.

### G. ...

### H. Appendix H

#### GUIDELINE FOR LONG-TERM CARE INDEPENDENT REVIEW ENTITIES

In order for an organization to qualify as an independent review organization for long-term care insurance benefit trigger decisions, it shall comply with all of the following:

- a. The independent review organization shall ensure that all health care professionals on its staff and with whom it contracts to provide benefit trigger determination reviews hold a current unrestricted license or certification to practice a health care profession in the United States.

- b. The independent review organization shall ensure that any health care professional on its staff with whom it contracts to provide benefit trigger determination reviews who is a physician holds a current certification by a recognized American medical specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

- c. The independent review organization shall ensure that any health care professional on its staff with whom it contracts to provide benefit trigger determination reviews who is not a physician holds a current certification in the specialty in

which that person is licensed, by a recognized American specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

d. The independent review organization shall ensure that all health care professionals on its staff and with whom it contracts to provide benefit trigger determination reviews have no history of disciplinary actions or sanctions including, but not limited to, the loss of staff privileges or any participation restriction taken or pending by any hospital or state or federal government regulatory agency.

e. The independent review organization shall ensure that neither it, nor any of its employees, agents, or licensed health care professionals utilized for benefit trigger determination reviews receives compensation of any type that is dependent on the outcome of the review.

f. The independent review organization shall ensure that neither it, nor any of its employees, agents, or licensed health care professionals it utilized for benefit trigger determination reviews are in any manner related to, employed by, or affiliated with the insurer, insured, or with a person who previously provided medical care or long-term care services to the insured.

g. The independent review organization shall provide a description of the qualifications of the reviewers retained to conduct independent review of long-term care insurance benefit trigger decisions, including the reviewer's current and past employment history, practice affiliations, and a description of past experience with decisions relating to long-term care, functional capacity, dependency in activities of daily living, or in assessing cognitive impairment. Specifically, with regard to reviews of tax qualified long-term care insurance contracts, it must demonstrate the ability to assess the severity of cognitive impairment requiring substantial supervision to protect the individual from harm or with assessing deficits in the ability to perform without substantial assistance from another person at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity.

h. This independent review organization shall provide a description of the procedures employed to ensure that reviewers conducting independent reviews are appropriately licensed or registered; trained in the principles, procedures, and standards of the independent review organization; and knowledgeable about the functional or cognitive impairments associated with the diagnosis and disease staging processes, including expected duration of such impairment, which is the subject of the independent review.

i. The independent review organization shall provide the number of reviewers retained by the independent review organization and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review (e.g. assessment of cognitive impairment or inability to perform activities of daily living due to a loss of functional capacity).

j. The independent review organizations shall provide a description of the policies and procedures employed to protect confidentiality of protected health information, in accordance with federal and state law.

k. The independent review organization shall provide a description of its quality assurance program.

l. The independent review organization shall provide the names of all corporations and organizations owned or controlled by the independent review organization or which own or control the organization, and the nature and extent of any such ownership or control. The independent review organization shall ensure that neither it, nor any of its employees, agents, or licensed health care professionals utilized are not a subsidiary of, or owned or controlled by, an insurer or by a trade association of insurers of which the insured is a member.

m. The independent review organization shall provide the names and résumés of all directors, officers, and executives of the independent review organization.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

### **Family Impact Statement**

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

### **Poverty Impact Statement**

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the

adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed amendments to the regulation. Such comments must be received no later than May 22, 2017, by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to lroberson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation 46 Long-Term Care Insurance**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in costs or savings to the Department of Insurance or any other state or local government units. The proposed rule change adopts changes made to date to the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Regulation, adopts model regulation definitions, and makes necessary technical amendments and re-designations to existing sections of the regulation. Additionally, the proposed rule change amends the premium rate schedule section pertaining to rate increases to align with the current NAIC Long-Term Care Insurance Model Regulation.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no impact on state or local governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change may have costs to the Long-term Care Insurers for the appeal process which will be reviewed by the Independent Review Organizations. The proposed rule change will not increase costs to insured individuals as a result of the changes to the premium rate schedule or to the triggers for a substantial premium increase. The changes to the premium rate schedule allow insurers to request approval without actuarial documentation when the premium rate schedule increase is less than what is currently required. The proposed change to the trigger for a substantial premium increase allows insured the option to choose whichever schedule is more beneficial.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no impact upon competition and employment in the state.

Denise Gardner  
Deputy Commissioner  
1704#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Insurance Office of the Commissioner**

#### **Regulation 108—Investigation of Discrimination Complaints (LAC 37:XIII.Chapter 151)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to adopt Regulation 108—Investigation of Discrimination Complaints. The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to subpart C of chapter 1 of title 22 of the Revised Statutes (R.S. 22:31 et seq., “equal opportunity in insurance”).

The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to subpart C of chapter 1 of title 22 of the Revised Statutes (R.S. 22:31 et seq., “equal opportunity in insurance”).

R.S. 22:31(A) creates within the Department of Insurance a Division of Diversity and Opportunity. R.S. 22:31(C) provides that the “division of diversity and opportunity shall review all complaints alleging a violation of the provisions of this Subpart.” These complaints include employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and 33, and other types of discrimination defined in R.S. 22:34 and 35.

R.S. 22:32(B) provides that the “commissioner of insurance shall promulgate rules and regulations to implement this Subpart” and R.S. 22:35(C) provides that the “commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of this Section.”

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 151. Regulation 108—Investigation of  
Discrimination Complaints**

**§15101. Authority**

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under subpart C of chapter 1 of title 22 of the Revised Statutes (R.S. 22:31 et seq., “equal opportunity in insurance”), which provides the following:

1. the Department of Insurance, Division of Diversity and Opportunity shall review all complaints alleging a violation of the provisions of R.S. 22:31 et seq.;
2. the commissioner of insurance shall promulgate rules and regulations to implement R.S. 22:31 et seq.; and
3. the commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of R.S. 22:35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

**§15103. Purpose, Scope, and Applicability**

A. The purpose of this regulation is to implement the provisions of R.S. 22:31 et seq., which prohibit discrimination within the business of insurance, mandate the review and disposition of all complaints alleging a violation of R.S. 22:31 et seq., and require the commissioner to promulgate rules and regulations to implement R.S. 22:31 et seq.

B. This regulation sets forth procedures through which complaints concerning the following types of discrimination shall be received and investigated:

1. employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and R.S. 22:33; and
2. pursuant to R.S. 22:34, the making or permitting of any unfair discrimination in favor of particular persons or between insureds or subjects of insurance having substantially like insuring risk and exposure factors or expense elements:
  - a. in the terms or conditions of any insurance contract;
  - b. in the rate or amount of premium charged therefor;
  - c. in the benefits payable thereunder; or
  - d. in any other rights or privileges accruing thereunder;
- e. §15103.B.2 shall not prohibit fair discrimination by a life insurer as between individuals having unequal life expectancies;
3. pursuant to R.S. 22:35, the refusal to issue or the failure to renew any policy or contract of property and casualty insurance to a person, solely because of the race of the applicant or the economic condition of the area in which the property sought to be insured is located, unless such refusal to issue or failure to renew is based on sound actuarial principles or is related to actual experience.

C. Every insurer transacting business in this state shall be subject to this regulation.

D. This regulation shall not preclude or in any way limit the personal rights of action of any person against any insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

**§15105. Definitions**

A. For the purposes of this regulation, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Affirmative Action Plan*—a document that contains a stated purpose of the insurer to foster equal opportunities for minorities and the delineation of active steps and efforts by the insurer reasonably calculated to achieve the stated purpose.

*Department*—Department of Insurance.

*Individual*—a natural person.

*Insurer*—every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal, an inter-insurance exchange, insurance exchange syndicate, or a Lloyds organization is an “insurer”. Any person who provides an employee benefit trust as specified in Subparagraph (9)(a) of this Section is an insurer. A health maintenance organization is an insurer but only for the purposes enumerated in R.S. 22:242(7). The term “insurer” shall not include any arrangement or trust formed under subpart J of part I of chapter 10 of title 23 of the *Louisiana Revised Statutes* of 1950, nor shall such arrangement or trust be deemed an insurer.

*Person*—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

**§15107. Eligibility; Filing a Complaint**

A. Any person may file a complaint regarding any action taken by an insurer that is alleged to be the result of an insurer’s engagement in discrimination as described in §15103.B. Complaints may be filed by mail, facsimile, or by using the department’s consumer complaint form, available upon request from the department or on the department’s website.

B. Every complaint alleging unlawful discrimination as described in §15103.B shall be filed for review with the department in written form within one year of the date the discrimination alleged was discovered by the complainant.

C. Each written complaint shall state specifically the discrimination alleged to have occurred, in sufficient detail to enable the Division of Diversity and Opportunity to understand what occurred, when it occurred, and the basis of the alleged discrimination. The complaint should also contain the names and other identifying information of each party involved and any other supporting documentation relevant to the complaint.

D. When a complaint is filed by a producer, a claims adjuster, or employee of an insurer, the commissioner shall not disclose to the insurer the identity of the complainant

without his or her consent. If it is determined that such disclosure is required for an administrative proceeding or other court proceeding based upon the findings of the investigation, then the commissioner shall notify the complainant prior to disclosure of his or her identity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§15109. Notification of Insurer; Responses of Insurer**

A. After receipt of a complaint, the Division of Diversity and Opportunity shall notify the insurer against whom the complaint was filed. Notice to the insurer shall state the nature of the complaint and shall request that the insurer file a written response to the allegations of discrimination.

B. Within 20 days of receipt of the notice of complaint, unless provided an extension of time by the division, the insurer shall file a written response to the allegations. The insurer's response shall be filed by mail, facsimile, or electronically. The response filed by the insurer shall respond to each complaint of discrimination alleged to have occurred. As part of the response, the insurer may submit any affirmative action plan that was in effect at the time of the alleged violation.

C. Failure of the insurer to respond timely shall result in a presumption that the alleged discrimination has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§15111. Investigation; Findings**

A. The Division of Diversity and Opportunity shall consider any affirmative action plan submitted to it, along with any other pertinent information submitted to it, in investigating complaints alleging employment discrimination prohibited by R.S. 23:331 et seq.

B. Following the completion of its review of a properly filed complaint, the receipt of the insurer's response, and any further investigation the department requires, the Division of Diversity and Opportunity shall issue its finding to the commissioner. Additionally, the Division of Diversity and Opportunity may refer the complaint, the insurer's response, and its findings to the office of consumer services, the division of insurance fraud, or other offices or divisions of the department for further investigation as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§15113. Enforcement; Sanctions**

A. In the event the Division of Diversity and Opportunity finds an apparent violation of R.S. 22:31 et seq., the commissioner may issue an order requiring the insurer to cease and desist engaging in the discriminatory practices or may assess sanctions and penalties to insurers as provided for in the Insurance Code, as follows:

1. R.S. 22:33, for employment discrimination prohibited by R.S. 23:331 et seq.;
2. R.S. 22:35(B), for violations of that section; or
3. R.S. 22:1969 and 1970, for violations of R.S. 22:34.

B. In lieu of taking action against an insurer alleged to have engaged in employment discrimination prohibited by

R.S. 23:331 et seq., the commissioner may advise the complainant to file a complaint with the federal Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§15115. Administrative Hearing**

A. Prior to the imposition of a penalty or sanction for an apparent violation of R.S. 22:31 et seq., an aggrieved party affected by a decision, act, or order of the commissioner may make a written demand for a hearing in accordance with R.S. 22:191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§15117. Violations Reported by Employees; Retaliation by Insurer Prohibited**

A. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14, which prohibits any insurer transacting business in this state from penalizing any of its employees for reporting to the commissioner or other appropriate authorities, in good faith, a suspected violation of the Insurance Code, including discrimination prohibited by R.S. 22:31 et seq. As provided in R.S. 22:14, "penalizing" shall include the following:

1. discharging, disciplining, demoting, transferring, or otherwise discriminating against an employee of the insurer;
2. reducing the benefits, pay, or work privileges of the employee of the insurer;
3. preparing a negative work performances evaluation of an employee of the insurer;
4. threatening to take any of the above actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **§15119. Severability**

A. If any Section or provision of Regulation 108 or its application to any persons or circumstances is held invalid, such invalidity or determination shall not affect other Sections or provision or the application of Regulation 108 to any persons or circumstances that can be given effect without the invalid Section or provision or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

#### **Family Impact Statement**

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended

regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

#### **Poverty Impact Statement**

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than May 22, 2017, by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to lroberson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 108—Investigation of Discrimination Complaints**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will not result in costs or savings to the state or local governmental units. The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to LA R.S. 22:31 et seq, "Equal Opportunity in Insurance".

The proposed rule codifies into law existing rules and guidelines in regards to discrimination complaints. The proposed rule creates a division of diversity and opportunity within the Department of Insurance to review all complaints alleging a violation. The Department of Insurance has existing staff that currently handles any complaints against discrimination; therefore, the DOI is not anticipating requiring additional personnel.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no impact on state or local governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule promulgates procedures for investigation and enforcement of discrimination complaints. This will protect and enforce equal opportunity in the business of insurance. In the event the division of diversity and opportunity finds an apparent violation, the Commissioner of Insurance may require an insurer to cease and desist engaging in the discriminatory practices or may assess sanctions and penalties up to ten thousand dollars against the insurer.



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule will have no impact upon competition and employment in the state.

Denise Gardner  
Deputy Commissioner  
1704#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Justice  
Law Enforcement Officers and  
Firemen's Survivor Benefit Review Board**

Survivor Benefits  
(LAC 37:I.1101 and LAC 58:XXIII.Chapter 1)

In accordance with R.S. 40:1665.3 and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that rulemaking procedures have been initiated to repeal the survivor benefits regulations, LAC 37:I.1101 and promulgate §101, Survivors Benefits, §103, Definitions, §105, Board Membership and Domicile, §107, Claims Requests, §109, Procedures for Hearings, and §111, Appeals in Title 58 (Retirement), Part XXIII (Survivor Benefit Board) of the *Louisiana Administrative Code*.

The proposed Rule applies to reviews of survivor benefits claims made on behalf of deceased law enforcement officers and firemen to the Law Enforcement Officers and Firemen's Survivor Benefit Review Board. The proposed Rule will address additional qualifying claim circumstances enacted by law and clarify documents necessary for adjudication of claims submitted for review by the Law Enforcement Officers and Firemen's Survivor Benefit Review Board. In order to provide continuity and a single point of contact for employee agencies reporting potential qualifying claims, the proposed Rule will provide that the attorney general or their designee shall chair the board in lieu of a rotational chairmanship by members of the board.

**Title 37**

**INSURANCE**

**Part I. Risk Management**

**Subpart 1. Insurance and Related Matters**

**Chapter 11. Law Enforcement Officers' and  
Firemen's Survivor Benefit Review Board**

**§1101. Survivor Benefits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), repealed by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

**Title 58**

**RETIREMENT**

**Part XXIII. Survivor Benefit Board**

**Chapter 1. Law Enforcement Officers and Firemen's  
Survivors Benefit Board  
(Formerly LAC 37:I.Chapter 11)**

**§101. Survivors Benefits  
(Formerly LAC 37:I.1101.A-B)**

**A. Purpose:**

1. to establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533(A), 40:1665, 40:1665.3, 40:1665.2(B), and 40:1665.1;

2. to govern the submission, evaluation and determination of claims submitted pursuant to R.S. 40:1665.3, 40:1665.2, 40:1665.1, 40:1665, 33:2011, and 33:2581.

**B. Application**

1. The rules will apply to all claims arising from R.S. 40:1665, 40:1665.2, and 40:1665.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

**§103. Definitions  
(Formerly LAC 37:I.1101.C)**

*Board*—the Law Enforcement Officers and Firemen's Survivor Benefit Review Board.

*Child*—as defined in R.S. 40:1665.3(C)(2).

*Fireman*—as defined in R.S. 40:1665(B).

*Law Enforcement Officer*—as defined in R.S. 40:1665.2(B).

*Line of Duty*—shall include:

1. for law enforcement, any activity performed in which a law enforcement officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of their official duties;

b. arising out of any activity while on or off duty, in their official enforcement capacity, involving the protection of life or property;

c. traveling to or from a public safety emergency or responding to a request for law enforcement assistance regarding the health, safety, or welfare of the public; or

d. traveling to or from their residence or their authorized work area while using a law enforcement vehicle provided by their employing agency;

2. for firemen, an activity performed in which a fireman suffers death as a result of:

a. an injury arising out of and in the course of the performance of their official duties;

b. an injury arising out of an activity, while on or off duty, in their capacity as a firemen, in the protection of life and property;

- c. a heart attack or stroke as provided for in R.S. 40:1665.1;
- d. a disabling cancer, following 10 or more years of service, as provided for in R.S. 33:2011; or
- e. a disease or infirmity of the heart or lungs, which develops during employment in the classified fire service, as provided for in R.S. 33:2581.

*Qualifying Claim*—those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

*Spouse*—as defined in R.S. 40:1665.3(C)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

#### **§105. Board Membership and Domicile (Formerly LAC 37:I.1101.D)**

A. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations, etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be the attorney general, or their designee.

B. The board will be comprised of those individuals or their designees as stated in R.S. 40:1665.3

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

#### **§107. Claims Requests**

##### **(Formerly LAC 37:I.1101.E)**

A. All claims shall be submitted to the chairman of Law Enforcement Officers and Firemen's Survivor Benefit Review Board through the Department of Justice, Attorney General.

B. All claim requests must include the following documentation:

1. notarized affidavit for decedent's date of employment, rank, duty assignment, routine work schedule, work responsibilities, years of classified service if applicable, and brief statement outlining injuries;
2. copy of decedent's commission as police officer/fireman;
3. notarized affidavits from any witnesses to incident;
4. certified copy of investigative report, or uncertified copy accompanied by notarized affidavit of reporting investigative officer, which identifies copy of report as accurate reproduction of original report;
5. certified copy of decedent's death certificate and autopsy protocol report;
6. notarized affidavit from decedent's surviving spouse stating their full name, address, date of marriage, and

that they were not legally separated or divorced at time of death. Also, a certified copy of marriage license;

7. list of names and birth dates of each minor child born to or adopted by decedent, certified copies of birth certificates;

8. certified copy of letters of tutorship;

9. notarized affidavit of tutor or legal representative of surviving child stating child is unmarried and under the age of 18, or alternately, is unmarried, under the age of 23, and a student;

10. notarized affidavit of caretaker of surviving child which states the major child is physically and/or mentally handicapped, totally and permanently disabled, and solely dependent upon decedent for support. Also, copy of the major child's medical and/or psychological records; and

11. if decedent was not survived by a spouse, child or children, a notarized copy of the department's form designating decedent's chosen beneficiary. If decedent is not survived by a spouse, child or children, and no beneficiary designation form has been completed, any approved qualifying claim shall be paid to the decedent's estate.

C. Additional information required for some firemen:

1. for claims involving disabling cancer under R.S. 33:2011, a certified copy of medical diagnosis of disabling cancer originating in the bladder, brain, colon, liver, pancreas, skin, kidney, or gastrointestinal tract, and leukemia, lymphoma, and multiple myeloma;

2. for claims involving diseases or infirmity of the heart or lungs under R.S. 33:2581, a certified copy of a medical diagnosis of disease of the heart or lung during period of classified fire service;

3. for claims involving heart attack or stroke under R.S. 40:1665.1, notarized affidavit providing that heart attack or stroke occurred while on duty while fireman was engaged in an activity which was stressful or physical, or participating in a training exercise that involved stressful or strenuous physical activity, or no later than 24 hours from engaging or participating in such activities, while on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

#### **§109. Procedures for Hearings**

##### **(Formerly LAC 37:I.1101.F)**

A. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

B. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

C. At the hearing date described, the board shall officially receive and act upon all claims received.

D. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

E. The board shall have the following options with regards to the claim action:

1. approval of the qualifying claim;
2. denial of the claim;
3. deferral pending receipt of additional data; or
4. conditional approval of qualifying claim, pending receipt of any outstanding documentation.

F. The board shall inform the claimant, in writing, of its determination.

G. If approved or upon receipt of outstanding documentation following conditional approval, the board chairman shall certify to the commissioner of administration and request payment in accordance with R.S. 39:1533.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

### **§111. Appeals**

#### **(Formerly LAC 37:I.1101.G)**

A. Claimant may appeal within 60 days of being advised of the board's decision.

B. This appeal shall be filed in the Nineteenth Judicial District Court.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:

#### **Family Impact Statement**

In accordance with section 953 and 972 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and the family budget. We anticipate the proposed Rule may allow for more expedited consideration and adjudication of survivor benefit claims by family of law enforcement officers and firemen by providing additional clarification regarding documents legally necessary and required for review of claims and payment of eligible claims.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate the proposed Rule will aid the family of a

deceased law enforcement officer or firemen in tendering necessary documents required by statute when submitting a claim for survivor benefits to the Law Enforcement Officers and Firemen's Survivor Benefit Review Board and thereby allowing such claims to be resolved on a more expedited basis.

#### **Poverty Impact Statement**

In accordance with section 953 and 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate the proposed Rule may allow for more expedited consideration and adjudication of survivor benefit claims by family of law enforcement officers and firemen by providing additional clarification regarding documents legally necessary and required for review of claims and payment of eligible claims.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, healthcare, nutrition, transportation, and utilities assistance. We anticipate the proposed Rule may allow for more expedited consideration and adjudication of survivor benefit claims by family of law enforcement officers and firemen by providing additional clarification regarding documents legally necessary and required for review of claims and payment of eligible claims.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Vickie Sweezy, Louisiana Bureau of Investigation, Office of the Louisiana Attorney General, P.O. Box 94005, Baton Rouge, LA 70804, or by email to SweezyVi@ag.louisiana.gov. Ms. Sweezy is responsible for responding to inquiries regarding

this proposed Rule. The deadline for receipt of all written comments is 12 p.m. on Friday, May 19, 2017.

Joe Picone  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Survivor Benefits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is not anticipated to result in any implementation costs or savings to the Department of Justice or any state or local governmental units. The proposed rule change will address legislative redesignation of survivor benefit statutes and additional qualifying circumstances which have been enacted into law in regard to claims for survivor benefits for law enforcement officers and firemen.

The proposed rule change clarifies the documents required by law to adjudicate a survivor benefit claim presented to the Law Enforcement Officers and Firemen's Survivor Benefit Review Board. The proposed rule change designates the Attorney General, or their designee, as the chairman of the Board in lieu of the current prescribed rotational chairmanship and provides that the Board may approve a survivor benefit claim, subject to the submission of additional statutorily required documents unrelated to determining the validity of the claim. These documents may include letters of tutorship regarding awards to minor children.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is not anticipated to have any effect on revenue collections of the State or Local Governmental Units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule change is not anticipated to have any estimated cost for directly affected persons or non-governmental groups. The proposed rule change may result in more expedited review and approval of survivor benefit claims through reduction in delays in timely submission of documents and information required for adjudication of claims.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule change is not anticipated to have any effect on competition or employment.

Joe Picone  
Chairman  
1704#022

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Digitized Driver's License  
(LAC 55:III.161)

In accordance with the provisions of R.S. 32:411(F)(1) and (3)(d) and (f) regarding the implementation of a digitized driver's license and the fee to install the application to display a digitized driver's license, the Department of Public Safety and Corrections, Office of Motor Vehicles, hereby publishes, and proposes to adopt LAC 55:III, Chapter

1, Subchapter A, §161 to implement rules as are necessary to implement a digitized driver's license as no digitized driver's license is valid until such rules are adopted. This is a completely new section.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 1. Driver's License**

**Subchapter A. General Requirements**

**§161. Digitized Driver's License**

A. As used in this Section, digitized driver's license shall have the meaning assigned to it as in Title 32 of the 1950 Louisiana Revised Statutes.

B. A licensee may obtain a digitized driver's license by purchasing the digitized driver's license application from the department or its authorized representative. The fee to initially install the application to display a digitized driver's license on a mobile device shall be six dollars.

C. The application shall be installed upon initial purchase and upon renewal of a driver's license.

D. The number of active applications per driver's license is limited to one unless the capability to add additional devices is approved by the commissioner.

E. In the case of lost, stolen, or replaced mobile devices, the holder of a digitized driver's license shall re-assign the application to another mobile device and terminate use of the application on the lost, stolen, or replaced mobile device.

F. The licensee utilizing the digitized driver's license is responsible for the successful operation of the application. If the person to whom the licensee is presenting the digitized driver's license to is unable to read the digitized driver's license, it will be as if the licensee did not present a driver's license at all.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:411(F)(1) and (3)(d) and (f).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 43:

**Family Impact Statement**

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;

6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1571(A).

**Poverty Impact Statement**

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of

applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments or requests for public hearing on this proposed rule to Kim Callaway, Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, at 7979 Independence Boulevard, Suite 301, 70806, P.O. Box 64886, Baton Rouge, Louisiana, 70896, (225) 925-4089 (phone); (225) 925-6303 (facsimile). Comments will be accepted through close of business May 10, 2017.

#### **Public Hearing**

A public hearing will be held on May 26, 2017, at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, Louisiana, 70806. If the requisites to hold a hearing are not met, the hearing will be cancelled. Please call and confirm that the hearing will be conducted.

Karen G. St. Germain  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Digitized Driver's License**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules are not anticipated to result in costs or savings to state or local governmental units. The proposed rules allow for the Office of Motor Vehicles to supply a digital driver's license to drivers statewide pursuant to Act 625 of the 2016 Regular Session. The digital license is optional and will consist of an application that motorists can download and install on mobile devices. OMV has amended an existing contract with a firm (Envoc) to develop the application with no costs borne by the office, as persons downloading the application must pay a \$6 fee (see Part III) that Envoc will collect directly prior to download and installation. Furthermore, persons downloading the application must acknowledge and agree to Terms of Use prior to installing the application.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules will not affect revenue collections for state or local governmental units. All fee revenues associated with download and installation of the digital driver's license application will accrue to Envoc.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rules create a cost of \$6 for persons who choose to obtain an optional digitized driver's license. The total cost paid by persons who desire a digital driver's license is dependent upon the number of motorists who choose to download the application. Because the number of motorists who may download the application is unknown, the total cost to consumers is indeterminable. Motorists must pay a \$6 fee to re-install the application upon renewal of a driver's license every 4–6 years.

Furthermore, the proposed rules create a revenue stream for Envoc, as all fee revenues resulting from downloads of the digital driver's license application will accrue to the firm. The fee revenues will offset any development costs for the application and instructional materials for law enforcement regarding the application's functionality and uses. The amount of fee revenues Envoc will realize is indeterminable, as the number of persons who will download the digital driver's license is unknown.

For reference, there are 2,976,761 licensed drivers in Louisiana (all classes) as of March 1, 2017. For illustrative purposes, assuming 10% of licensed drivers statewide (297,767) download the application for a digital license, it would result in a total cost of approximately \$1.78 M (297,767 drivers \* \$6 per application download). Envoc would realize gross revenues of \$1.78 M that would be offset by the aforementioned development expenditures.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rules will not affect competition and employment.

Lt. Col. Jason Starnes  
Chief Administration Officer  
1704#027

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Transportation and Development Professional Engineering and Land Surveying Board**

Professional Engineer Licensure and  
Acceptable Engineering Graduate Degrees  
(LAC 46:LXI.903, 1105, and 1901)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.903, 1105, and 1901.

This is a technical revision of existing rules under which LAPELS operates. The revision removes the expired provisions relating to applicants for licensure as a

professional engineer in naval architecture/marine engineering and clarifies the requirements for acceptable engineering graduate degrees.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXI. Professional Engineers and Land Surveyors Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering or Land Surveying**

##### **§903. Professional Engineer Licensure**

A. The requirements for licensure as a professional engineer under the alternatives provided in the licensure law are as follows:

1. ...
2. the applicant for licensure as a professional engineer shall be an individual who holds a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia, in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional engineer by the board.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR 38:2564 (October 2012), LR 39:1060 (April 2013), LR 39:2801 (October 2013), LR 43:538 (March 2017), LR 43:

#### **Chapter 11. Curricula**

##### **§1105. Acceptable Engineering Graduate Degrees**

A. Acceptable engineering graduate degrees are those in an engineering discipline or sub-discipline from a university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline and which require the removal of deficiencies in science, mathematics, engineering sciences and engineering design as a prerequisite to the graduate courses; or are those found by the board to be equivalent to such degrees. The successful completion of a minimum of 48 semester credit hours of

coursework in engineering sciences and engineering design is required in order to remove deficiencies in engineering sciences and engineering design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 43:

#### **Chapter 19. Disciplines of Engineering**

##### **§1901. Disciplines**

A. ...

B. Each individual licensed under R.S. 37:693(B)(5) shall be listed by the board as a professional engineer in the discipline of naval architecture/marine engineering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:118 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1033 (July 2001), LR 30:1718 (August 2004), LR 39:1061 (April 2013), LR 43:

##### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on family formation, stability or autonomy.

##### **Poverty Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

##### **Provider Impact Statement**

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

##### **Public Comments**

Interested parties are invited to submit written comments on the proposed Rule through May 10, 2017 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Professional Engineer Licensure and  
Acceptable Engineering Graduate Degrees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change removes the expired provisions relating to applicants for licensure as a professional engineer in naval architecture/marine engineering. The proposed rule change also clarifies the requirements for acceptable engineering graduate degrees.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no estimated impact on competition and employment in the public and private sectors as a result of the proposed rule change.

Donna D. Sentell  
Executive Director  
1704#024

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### Senate

#### Senate Committee on Health and Welfare

##### Report of the Senate Health and Welfare Committee Oversight Hearing on Emergency Rule proposed by Department of Health

Editor's Note: The Emergency Rule referenced below may be viewed on pages 628-629 of this edition of the *Louisiana Register*.

March 22, 2017

In accordance with the powers conferred in the Administrative Procedure Act at R.S. 49:953(B), the Senate committee on health and welfare met on this day to exercise oversight authority on the attached Emergency Rule submitted by the Louisiana Department of Health on March 16, 2107. The Emergency Rule provides for the elimination of the psychosocial rehabilitation services for youth program on April 1, 2017. After a thorough hearing on the matter,

including a presentation by the department and public testimony, the committee, by unanimous vote, rejected the Emergency Rule on the grounds set forth in R.S. 49:953(B)(1) and R.S. 49:968(D)(3).

The committee held that the Emergency Rule was not in conformity with the intent and scope of the enabling legislation, was not in conformity to all applicable provisions of law and of the constitution, is lacking in merit, and is unacceptable. The committee further held that the Emergency Rule caused imminent peril to the public health, safety, and welfare of more than 40,000 children with significant behavioral health needs.

By transmittal of this written report of committee action and pursuant to R.S. 49:953(B)(4)(c) the Emergency Rule eliminating the psychosocial rehabilitation services for youth program on April 1, 2018 shall hereby be null and without effect.

Senator Fred H. Mills, Jr.  
Chairman

1704#008



# Administrative Code Update

CUMULATIVE: January-March 2017

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:	
			Month	LR 43 Page #				Month	LR 43 Page #
7	V.3101	Adopted	Mar.	515		LXI.901,2701	Amended	Feb.	343
	V.Chapter 71	Amended	Feb.	245		XCI.301	Repromulgated	Jan.	48
	V.7108,7109	Adopted	Feb.	245					
	XV.167	Amended	Feb.	245	48	I.4001	Amended	Jan.	73
	XV.Chapter 5	Amended	Mar.	510		I.4001	Repromulgated	Feb.	323
	XV.519,701,703,705,707,709,711,713,715	Repealed	Mar.	510		I.5239	Amended	Jan.	82
	XV.717,719,721,723,725	Repealed	Mar.	510		I.Chapter 72	Repealed	Jan.	50
13	I.107	Amended	Mar.	519		I.Chapter 72	Adopted	Jan.	50
						I.8595,8599	Amended	Mar.	524
22	III.Chapter 47	Amended	Feb.	316		I.9047	Amended	Feb.	329
	V.211	Amended	Jan.	46		I.Chapter 93	Amended	Jan.	75
	XI.510	Amended	Jan.	46		V.Chapters 41-45	Amended	Feb.	330
25	I.122	Amended	Jan.	46	50	V.4501	Repealed	Feb.	330
	IX.Chapters 1-11	Amended	Feb.	290		I.9319,9381,9405	Amended	Jan.	74
	IX.329	Adopted	Feb.	290		II.Chapter 200	Amended	Mar.	525
28	IV.703,1903	Amended	Mar.	518		II.20005	Amended	Jan.	82
	XI.603	Amended	Feb.	301		II.20019	Amended	Feb.	328
	XCI.Chapters 1-3	Amended	Mar.	516		V.963	Amended	Feb.	325
	XCV.Chapters 1-17	Repealed	Feb.	302		V.2501	Amended	Mar.	522
	CXXXIX.107,301,307,309,523,2301,2303	Amended	Feb.	306		V.2903	Amended	Feb.	322
	CXXXIX.2701,2703,2707,2709,2713	Amended	Feb.	306		V.3101,3103	Adopted	Mar.	522
	CXXXIX.401,403,405,407,409,411,417	Repealed	Feb.	306		VII.33103	Amended	Feb.	325
	CXXXIX.419,421,423,521,707	Repealed	Feb.	306		VII.33105	Adopted	Feb.	325
						XV.27501,27503,27901,28101	Amended	Jan.	82
33	III.501	Amended	Mar.	520		XXI.2705	Adopted	Jan.	74
	III.2201	Amended	Mar.	521		XXI.2905	Amended	Feb.	324
	V.10303	Amended	Mar.	537		XXXIII.Chapters 1,3,7	Amended	Feb.	321
37	XIII.Chapter 99	Amended	Mar.	534	51	XXXIII.8101,8103,8301,8305	Amended	Feb.	323
	XIII.Chapter 153	Adopted	Mar.	530		XII.101,311,325,343,901,903,905,907,911	Amended	Jan.	83
						XII.913	Amended	Jan.	83
43	XIX.104	Amended	Mar.	535		XII.319,912,1201	Adopted	Jan.	83
	XIX.501	Amended	Mar.	536	55	III.807,819	Amended	Mar.	535
	XIX.571	Adopted	Mar.	536					
	XXVII.2701	Amended	Jan.	47	58	I.101	Amended	Jan.	88
	LXI.903,909,2701	Amended	Mar.	537		I.103,105,107	Repealed	Jan.	88
46	XXXIII.701,1509	Amended	Jan.	48	61	I.1605	Amended	Feb.	300
	XL.Chapters 1-7	Amended	Feb.	311		I.1615,1621	Adopted	Feb.	300
	XLI.1903	Amended	Feb.	316		III.2701	Adopted	Feb.	342
	LV.101,301,303,310,311,312,901	Amended	Mar.	541	76	V.119	Adopted	Feb.	344
	LV.307,308,1002	Adopted	Mar.	541		V.701	Amended	Jan.	90
	LV.313,314,315,316	Repromulgated	Mar.	541		VII.106	Amended	Jan.	90
	XLV.408,7503,7505,7507,7509,7513	Amended	Feb.	317		VII.335	Repromulgated	Jan.	89
	XLV.Chapter 77	Amended	Feb.	318		VII.537	Amended	Jan.	91
	XLV.7725	Repealed	Feb.	318					
	LIII.2307	Amended	Jan.	50					

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Annual Quarantine Listing—2017

In accordance with LAC 7:XV.107 and 109, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences is hereby publishing the annual quarantine.

#### **1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)**

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

#### **2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)**

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

##### **Arizona**

(1) Generally infested area: the entire state.

##### **California**

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

##### **New Mexico**

(1) Generally infested area: The entire state.

##### **Texas**

(1) Generally infested area: The entire state.

#### **3.0 Phytophagous Snails**

The states of Arizona and California.

#### **4.0 Sugarcane Pests and Diseases**

All states outside of Louisiana.

#### **5.0 Lethal Yellowing**

The state of Florida.

#### **6.0 Texas Phoenix Decline**

The states of Texas and Florida.

#### **7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.**

All citrus growing areas of the United States.

#### **8.0 Burrowing Nematode (*Radopholus similis*)**

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

#### **9.0 Oak Wilt (*Ceratocystis fagacearum*)**

##### **Arkansas**

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

##### **Illinois**

Entire state.

##### **Indiana**

Entire state.

##### **Iowa**

Entire state.

##### **Kansas**

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

##### **Kentucky**

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

##### **Maryland**

Infected Counties: Allegany, Frederick, Garrett, and Washington.

##### **Michigan**

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

##### **Minnesota**

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

##### **Missouri**

Entire state.

##### **Nebraska**

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

### **North Carolina**

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

### **Ohio**

Entire state.

### **Oklahoma**

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

### **Pennsylvania**

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

### **South Carolina**

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

### **Tennessee**

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

### **Texas**

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

### **Virginia**

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

### **West Virginia**

Infected counties: all counties except Tucker and Webster.

### **Wisconsin**

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

### **10.0 Phony Peach**

#### **Alabama**

Entire state.

#### **Arkansas**

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

#### **Florida**

Entire state.

#### **Georgia**

Entire state.

### **Kentucky**

County of McCracken.

### **Louisiana**

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

### **Mississippi**

Entire state.

### **Missouri**

County of Dunklin.

### **North Carolina**

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

### **South Carolina**

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

### **Tennessee**

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

### **Texas**

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

### **11.0 Citrus Canker (*Xanthomonas citri* subsp. *citri*)**

#### **Louisiana**

Infested parishes: Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, and St. John.

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

### **12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]**

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

### **13.0 Citrus Greening [*Candidatus Liberibacter asiaticus*]**

#### **Louisiana**

Infested parishes: Jefferson, Orleans and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

### **14.0 Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]**

#### **Louisiana**

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

### **15.0 Emerald Ash Borer [*Agrilus planipennis*]**

#### **Louisiana**

Infested parishes: Bossier, Claiborne, Lincoln, Union and Webster.

Any other areas or states designated as infested under the Federal Emerald Ash Borer quarantine 7 CFR 301.53-3 et seq.

Mike Strain DVM  
Commissioner

1704#021

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Public Hearing—Substantive Changes to  
Proposed Rule: Medical Marijuana  
(LAC 7:XLIX.101, 305, 501, 503, 507, 513, 515-525,  
701, 903-909, 1101, 1301, 1505, 1701, 1709, 1715,  
2101, 2301, 2303, 2501, 2901, 2903 and 3101)

The department published a Notice of Intent to enact LAC 7:XLIV.Chapters 1-31 regarding the growing and production of medical marijuana at LR 42:1964-1985 (November 20, 2016). As a result of public comments received on the proposed Rule, notice is hereby given that the department is seeking to incorporate substantive changes to the proposed Rule. The proposed changes made since the notice of intent was filed clarify that the licensee is the responsible party for the obligations under the Act (R.S. 40:1046) and rules, even if the obligations are performed by a producer or subcontractor. The proposed changes add a definition of “subcontractor,” clarifies that a presumption of suitability does not apply to any producer or subcontractor, and provides that all subcontractors shall meet suitability standards set forth in §513 and may be required to submit to an investigation to determine suitability. The proposed changes add an appeals process for suitability determinations. The proposed changes also make some non-substantive changes, including changing to term “dispensary” to “marijuana pharmacy.” An underline-strikethrough version of the proposed changes is available on the department’s website.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XLIX. Medical Marijuana

#### Chapter 1. General Provisions

##### §101. Definitions

A. ...

B. The following words and terms shall have the following meanings.

\*\*\*

*Business Entity or Legal Entity*—a natural person, a corporation, limited liability company, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation, including the Louisiana State University Agricultural Center and the Southern University Agricultural Center, or any other legal entity or organization through which business is conducted.

\*\*\*

*Licensed Dispensary Pharmacy or Marijuana Pharmacy*—a pharmacy licensed by the Louisiana Board of Pharmacy to dispense medical marijuana-infused product.

*Licensee*—a person or legal entity holding the specialty license issued by the department authorizing the holder, directly or through a producer, to operate a medical marijuana production facility.

*Louisiana Medical Marijuana Tracking System (LMMTS)*—the required seed-to-sale tracking system that tracks medical marijuana from either the seed or immature

plant stage until the product is sold to a marijuana pharmacy or is destroyed.

*LMMTS Tracking System User*—a licensee or its representative or authorized employees who is granted LMMTS user account access for the purpose of conducting inventory tracking functions in the LMMTS, who has been successfully trained by LMMTS Trained Administrator(s) in the proper and lawful use of LMMTS, and who has completed any additional training required by the department.

\*\*\*

*Permittee*—a principle officer or board member of the licensee or producer, or a person employed in the operation or supervision of the licensee’s operation, including any individual whose employment duties directly relate to the growing, cultivating, harvesting, processing, weighing, packing, transportation and selling of product.

*Permittee Identification Card*—a document approved by the department that identifies a person as a production facility permittee.

*Person*—any individual, partnership, association, organization, corporation or any other legal entity.

\*\*\*

*Producer*—the licensee or a person or legal entity under contract, memorandum of understanding, or cooperative endeavor agreement with the licensee for services to grow or produce medical marijuana and medical marijuana-infused product.

*Production Facility*—a permanent, secured space designed and located in one geographic location, operated solely for the production of medical marijuana and product by the licensee to perform necessary activities to provide licensed pharmacies with usable product.

\*\*\*

*Restricted Access Area*—a building, room or other area in the production facility where medical marijuana is grown, cultivated, harvested, stored, weighed, packaged, sold or processed for sale to a licensed marijuana pharmacy.

*Subcontractor*—a person under contract, memorandum of understanding, cooperative endeavor agreement, or any other agreement, with the producer or licensee for any service other than services to grow or produce medical marijuana and medical marijuana-infused products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### Chapter 3. Administrative Procedures and Authority §305. Louisiana State University Agricultural Center and/or Southern University Agricultural Center as Licensee

A. These regulations, subject to any rights in the Act, intend for the term licensee to apply to Louisiana State University Agricultural Center, Southern University Agricultural Center, either separately or jointly, if the universities exercise the right of first refusal granted under the Act.

1. If the universities do not exercise their rights of first refusal, the term licensee shall apply to the recipient of the license awarded pursuant to R.S. 40:1046.

B. In either case, the licensee is authorized to enter into agreements with producers or subordinate contractors; however, the licensee shall be the responsible party for compliance with all obligations under the Act and Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

## **Chapter 5. License and Permits**

### **§501. Procedure for Issuing the License**

A. ...

B. Louisiana Revised Statute 40:1046 entitles the Louisiana State University Agricultural Center and the Southern University Agricultural Center to the right of first refusal to be licensed as the production facility. This entitlement carries a presumption of suitability and accordingly, the following Sections of this Chapter pertaining to licensing shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center: §§505, 507, 509, 513.A, 515.A, 517, 519.A.3, 521, 701.A. The presumption of suitability does not apply to any producer or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§503. General Authority of the Department**

A. The department shall have the authority to call forth any person who, in their opinion, has the ability to exercise significant influence over an applicant or licensee, and such person shall be subject to all suitability requirements. The department may require any person who furnishes goods or services, by contract or any other type of agreement, to the licensee, producer or subcontractor to undergo a suitability determination.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§507. Investigations; Scope**

A. The department shall investigate all applications for the license or permit or other matters requiring department approval. The department may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the applicant's business integrity, the suitability of the proposed premises for the facility, the suitability of a person with an ownership or economic interest in the applicant for a license of 5 percent or more, and the suitability of any person who in the opinion of the department has the ability to exercise significant influence over the activities of an applicant for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§513. Eligibility and Suitability Standards**

A. Eligibility. No person shall be eligible to apply for the license unless he meets all of the following requirements:

1. is in compliance with all requirements provided by the Act; and

2. is properly registered and in good standing with the Louisiana Secretary of State and Department of Revenue.

B. Suitability. No person shall be eligible to obtain a license, permit, or contract related to the production of medical marijuana, or to obtain any other approval pursuant to the provisions of the Act, or these rules unless the applicant has demonstrated by clear and convincing evidence to the department, where applicable, that he is suitable. Suitable means the person has filed the suitability documents required by the department and is:

B.1. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 43:

### **§515. Suitability Determination**

A. An applicant and officers, directors, and any person having a 5 percent or more economic interest in the licensee shall be required to submit to an investigation to determine suitability.

B. All subcontractors shall meet suitability standards set forth in §513 of this Chapter and may be required to submit to an investigation to determine suitability.

C. Any person, who in the opinion of the department, has the ability to exercise significant influence over the activities of an applicant for license or licensee shall be required to submit to an investigation to determine suitability.

D. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee, or permittee or the person who is the subject of the investigation.

E. Failure to submit to a suitability determination as required by this Section may constitute grounds for delaying consideration of the application or for denial of the application.

F. Appeals. Any finding of suitability may be appealed to the commissioner by the person who was found unsuitable by seeking an adjudicatory hearing to have said decision reconsidered in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes, provided said appellant files with the commissioner a written notice of appeal within 30 days of the date of the decision regarding suitability to the affected party.

1. The commissioner shall appoint a hearing officer to preside over a hearing to determine whether to uphold the suitability determination. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

2. Notice of the hearing date shall be sent by the hearing officer to the department and the affected party at least 30 days prior to the hearing. Notice shall be sent by certified mail, return receipt requested.

3. The presiding hearing officer shall prepare a written determination, which shall contain, at a minimum, the record of the hearing, including all submissions and the decision regarding the appeal of the suitability determination. The hearing officer shall render his decision within thirty days after the hearing is conducted.

4. All appeals from any decision of the hearing officer shall be filed in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§519. Information Required from an Applicant for a License**

A. An application for the license shall contain the following information including but not limited to:

1. - 9. ...

10. a list of positions, including job descriptions, which the applicant anticipates employing in the production facility operation.

B. - B.3. ...

4. procedures and security standards for total operation of the production facility;

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§521. Fingerprinting**

A. An initial application for a license, permit, or finding of suitability is not complete unless all persons required by the department to be fingerprinted have submitted to fingerprinting at the direction of the department.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§523. Employee Permits Required**

A. ...

B. No person employed in a capacity which requires an employee permit may begin his employment until a valid permit is issued to him by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§525. Display of Identification Badge**

A. Every person required to be permitted shall be issued a permittee identification badge, which shall be on his person and displayed at all times when on the production facility premises or when transporting product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **Chapter 7. Fees**

#### **§701. Fees**

A. - B. ...

C. A fee in an amount not to exceed 7 percent of gross sales shall be paid quarterly to the department.

D. All fees collected by the department pursuant to this Section shall be collected from the licensee and shall be used to fund expenses relating to the regulation and control of the medical marijuana program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **Chapter 9. Compliance and Inspections**

#### **§903. Conduct**

A. General Provisions

1. all licensees, producers, subcontractors and permittees shall comply with all applicable federal, state, and local laws and regulations. For purposes of this Chapter, applicable federal law shall not mean the growing, sale, possession, or distribution of medical marijuana; and

2. all notifications to the department required by this Section shall be in writing.

B. Unsuitable Conduct

1. a licensee, producer, subcontractor or permittee shall not engage in unsuitable conduct or practices and shall not employ or have a business association with any person, natural or juridical, that engages in unsuitable conduct or practices; and

2. - 2.f. ...

3. the licensee, producer, subcontractor or permittee shall not engage in, participate in, facilitate, or assist another person in any violation of these rules or the Act; or

4. any person required to be found suitable or approved or permitted by the department pursuant to this Part, shall have a continuing duty to notify the department of his arrest, summons, citation or charge for any criminal offense or violation that would deem him unsuitable in accordance with these rules. The notification required by this Paragraph shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§905. Compliance with Laws**

A. ...

B. In the event the licensee subcontracts services in the production of medical marijuana or product, the producer's acts or omissions shall be considered the acts or omissions of the licensee. All obligations, duties, and responsibilities imposed on the licensee by these regulations shall be the obligations, duties and responsibilities of the producer. The licensee retains ultimate liability and responsibility for the obligations imposed on the licensee under the Act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§907. Inspections and Observations**

A. The department and its representatives shall have complete, immediate and unrestricted access to the production facility at any and all times without notice or demand to the licensee, permittee or any other person, to enter and:

A.1. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§909. Production Facility Agent-In-Charge**

A. The licensee shall designate a one or more permittees as production facility agent-in-charge. A production facility agent-in-charge shall be on the production facility premises at all times during hours of operation and shall have authority to immediately act in any matter or concern of the department. A description of the duties and responsibilities of the production facility agent-in-charge shall be included in the written system of internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **Chapter 11. Internal Controls**

#### **§1101. Internal Control for Production Facility**

A. The licensee shall establish administrative and accounting procedures for the purpose of exercising effective control over the internal fiscal affairs. The procedures must be designed to reasonably ensure that:

A.1. - B.5. ...

C. The system of internal control procedures shall meet, at a minimum, the requirements set forth in the Act and administrative rules. If the department determines that the administrative or accounting procedures or its written system does not meet the standards, the department shall so notify the licensee in writing. Within 30 days after receiving the notification, the licensee shall amend its procedures and written system accordingly, and shall submit a copy of the written system as amended and a description of any other remedial measures taken.

D. The licensee shall promptly report any amendments to the its system of internal control procedures. The report must include either a copy of the written system of internal control procedures as amended or a copy of each amended page of the written system of internal control procedures, and a written description of the amendments signed by the licensee's chief financial officer. The department may also request the licensee to submit a copy of the written system of internal control procedures at any time.

E. The licensee shall comply with ~~its~~ the written system of internal control procedures submitted pursuant to Subsection B as it relates to compliance with the requirements set forth in these regulations. Failure to comply is an unsuitable method of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

#### **§1103. Application Control**

A. The licensee shall establish application control procedures for the purpose of exercising effective control over the management information systems to include the LMMTS, and to provide for a stable operation of the IT environment. The licensee shall comply with the system of application control as it relates to compliance with the requirements set forth in these regulations. The application procedures shall include a business continuity plan, an organizational chart depicting segregation of functions and responsibilities, and a description of the duties and responsibilities of each position shown on the organizational chart.

B. - E.5. ...

F. Computer Records

1. at a minimum, the licensee shall generate, review, document this review, and maintain reports on a daily basis for the respective system(s) utilized in its operation.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **Chapter 13. Reporting and Record Keeping**

#### **§1301. Reporting and Record Keeping**

A. - D.13. ...

E. The records required by this section shall include the following:

1. - 3. ...

4. the name, address and registration number of the marijuana pharmacy to which the product was sold;

5. the item number, product name (description), and quantity of products registered by the department and sold or otherwise distributed to the marijuana pharmacy;

6. the name of the marijuana pharmacy and the marijuana pharmacy employee who took custody of the product;

7. the price charged and the amount received for the products from the marijuana pharmacy;

8. - 9. ...

F. A record of all approved products that have been distributed shall be filed electronically with the department, utilizing a transmission format acceptable to the department, not later than 24 hours after the product was transported to a marijuana pharmacy or disposed of by the production facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **Chapter 15. Production Facility**

#### **§1505. Restricted Areas**

A. Only permittees as provided in these rules, or in the internal controls may enter restricted areas except as otherwise provided herein. The licensee shall implement procedures to ensure compliance with this Section.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

## **Chapter 17. Surveillance and Security**

### **§1701. Required Surveillance Equipment**

A. The licensee shall install a surveillance system on the entire premises of the production facility which meets or exceeds specifications established by the department and provide access to the department at all times.

B. - J. ...

K. The production facility shall have adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear recording and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§ 1709. Security Plan Requirements**

A. The licensee shall submit to the department a security plan prior to commencement of operations to include, at a minimum, the following:

1. a detailed description of all security solutions for the production facility and transportation of product to and from the facility to be implemented by the licensee;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§1715. Security Log/Notification/Reports**

A. - C. ...

D. The licensee shall compile a written report to be promptly filed with the department on any incident in which the licensee has knowledge of, or reasonable suspicion that a violation of the Act, these rules, or its system of internal controls has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

## **Chapter 21. Quality Control/ Assurance Program**

### **§2101. Quality Control**

A. The licensee shall develop and implement a written quality assurance program for determining necessary storage conditions and shelf life for both medical marijuana concentrates and products subject to the following:

1. ...

2. any area within the production facility where medical marijuana will be produced into an edible form shall comply with the Louisiana State Food, Drug & Cosmetic Law.

3. no products requiring refrigeration or hot-holding shall be manufactured at a production facility for sale or

distribution to a marijuana pharmacy due to the potential for food-borne illness.

B. The licensee shall develop and follow written procedures determining storage conditions and establishing shelf life for each product type such that:

1. - 7. ...

C. The licensee shall develop and follow written procedures for responding to mandated testing results indicating contamination of any kind including:

1. documenting the destruction of the contaminated medical marijuana or product as described in Chapter 27;

C.2. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 43:

## **Chapter 23. Laboratory Approval and Testing**

### **§2301. Laboratory Approval**

A. - B.1. ...

2. is independent from all other persons involved in the medical marijuana industry in Louisiana, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial, management or other interest in a licensed marijuana pharmacy, licensee, production facility, certifying physician or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase or use of medical marijuana or product;

3. - 4. ...

5. submits to an on-site facility review by the department or its designated agent prior to the granting of departmental approval. The production facility will continue to be subject to inspection at any time subsequent to approval; and

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§2303. Laboratory Testing**

A. - A.1.e. ...

2. product shall not be released for delivery to a marijuana pharmacy for sale or consumption until it has passed all analysis limits for:

a. microbiological contaminants;

b. active ingredient analysis for accuracy of potency; and

c. homogeneity.

B. - H. ...

I. The laboratory shall enter the results of any tests performed pursuant to this Section into LMMTS within 24 hours of completion of each test. The laboratory shall file with the department and licensee an electronic copy of each laboratory test result for any sample that does not pass a test. In addition, the laboratory shall maintain the laboratory test results including all relevant chromatograms and quality control documentation for at least five years and make them available at the department's request.

J. ...

K. The licensee shall provide to the marijuana pharmacy the laboratory test results for each batch of product purchased.



AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

## **Chapter 25. Transportation**

### **§2501. Transportation**

A. - C.1. ...

2. the name, contact information, and premises address of the marijuana pharmacy or laboratory receiving the delivery;

C.3. - E. ...

E. Transport manifests shall be available for viewing through LMMTS, to the marijuana pharmacy, laboratory for testing, and the department before the close of business the day prior to transport.

F. The licensee or its authorized employees shall provide a copy of the transport manifest to law enforcement if requested to do so while in transit.

G. An authorized employee of the marijuana pharmacy or approved laboratory for testing shall verify that the medical marijuana or product are received as listed in the transport manifest by:

1. - 2. ...

H. A receiving marijuana pharmacy or approved laboratory for testing shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in LMMTS and in any relevant business records.

I. - I.3. ...

J. Authorized permittees who are transporting medical marijuana or product on public roadways shall:

1. travel directly to the marijuana pharmacy or laboratory testing facility; and

J.2. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

## **Chapter 29. Labeling**

### **§2901. Labeling Requirements**

A. Each product shall be labeled by the licensee prior to sale to a marijuana pharmacy. Each label shall be securely affixed to the package and shall include:

A.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

### **§2903. Packaging Requirements**

A. The licensee shall ensure that every product being sent to a marijuana pharmacy for sale to a qualified patient is placed within a child resistant, light resistant, tamper proof container prior to sale or transport to the marijuana pharmacy.

B. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

## **Chapter 31. Enforcement**

### **§3101. Enforcement**

A. Whenever the department has any reason to believe that a violation of the Act or this Part or of any rule or regulation adopted pursuant to this Part has occurred, the department may present the alleged violations to a hearing officer for a determination.

B. The department may impose civil penalties and/or suspend, revoke or place on probation any permittee or licensee for the commission of a violation of the Act or of these rules. Civil penalties may be assessed, probation may be imposed, and permits and licenses may be suspended or revoked only upon a ruling of the hearing officer based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

1. - 3.c. ...

d. a statement of the rights which will be afforded to the licensee or permittee at the hearing; and

e. a statement as to the possible penalties which may be imposed upon a finding by the hearing officer at the hearing that the alleged violator committed the alleged violation.

4. ...

C. Any person who violates any provision of the Act or this Part or any rule or regulation adopted pursuant thereto or any provision of a stop order, shall be subject to a civil penalty of not more than \$50,000 for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

D. ...

E. The department may require an individual permittee or the licensee against whom disciplinary action has been taken by the department to pay the reasonable costs incurred by the department for the hearing or proceedings, including its legal fees, court reporter, investigators, witness fees, and any such costs and fees incurred by the department. These costs and fees shall be paid no later than thirty days after the decision of the hearing officer becomes final. No license or permit shall be renewed or reinstated until such costs have been paid.

F. - H. ...

I. All appeals from any decision of the hearing officer shall be filed in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the department gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 1 p.m. on Monday, May 22, 2017 in the Veterans' Auditorium at the Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. Interested persons may submit written comments to Tabitha Gray, Executive Counsel, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 2000,

Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 3 p.m. on Monday, May 22, 2017.

Mike Strain, DVM  
Commissioner

1704#046

### POTPOURRI

#### Department of Health Bureau of Health Services Financing

##### Second Quarter Hospital Stabilization Assessment—2017

House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital. In compliance with HCR 51, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Volume 11).

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 51. For the quarter beginning April 1, 2017 through June 30, 2017, the quarterly assessment amount to all hospitals will be \$16,058,703. This amounts to 0.14 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Rebekah E. Gee MD, MPH  
Secretary

1704#060

### POTPOURRI

#### Department of Natural Resources Office of Conservation

##### Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Charles A. O'Neill, Jr.	Golden Meadow	L	Mrs Louis Rousse	003	43273
Charles A. O'Neill, Jr.	Golden Meadow	L	Jackson Chermie	005	43183
Jimmy Wallace	Monroe	M	Wallace-Pratt	001	158052
F.E.Hargraves & Sons Drl.Co.Inc.	Caddo Pine Island	S	Land C	004	38167
F.E.Hargraves & Sons DRL Co.Inc.	Caddo Pine Island	S	Muslow	003	154390

Operator	Field	District	Well Name	Well Number	Serial Number
F. E. Hargraves	Caddo Pine Island	S	Stiles	002	23073
Delta Drilling Co. et al	Cheneyville	L	Weil Company Inc	001	80340
W H Marshall	Caddo Pine Island	S	Stiles	D-1	33025
Ross Exploration, Inc.	Caddo Pine Island	S	Cheshier	004	23989 (30)
Ross Exploration, Inc.	Caddo Pine Island	S	Etchison	001	38324 (30)
Ross Exploration, Inc.	Caddo Pine Island	S	Etchison	004	51578 (30)
Harry Fotiades	Wildcat-No La Shreveport Dist	S	Bath et al	001	22697
Marine Drilling Inc	Section 28	L	J J Martin	016	78913
Windsor Petroleum, Inc.	Hackberry, East	L	Doiron A	001	58560
Kindee Oil and Gas Louisiana, LLC	Fausse Pointe	L	TGR Land Company Inc et al	001	240087
Carlton Frazier	Benson	S	Jackson	001	81701
H. C. Morris	Monroe	M	Newblock	001	291
Standard Drilling Company	Wildcat-No La Monroe Dist	M	Delta Hardwood Lbr Co	001	10720
Latex Petroleum Corp.	Bayou Choctaw	L	Wilberts Myrtle Grove	024	33167 (30)
Latex Petroleum Corp.	Bayou Choctaw	L	Gay Union Corporation	035	71458 (30)

Richard P. Ieyoub  
Commissioner

1704#048

### POTPOURRI

#### Department of Natural Resources Office of Conservation Injection and Mining Division

##### Advanced Notice of Rulemaking and Solicitation of Comments—Enhanced Oil Recovery (EOR)—Class II EOR Injection Wells

The Department of Natural Resources, Office of Conservation is requesting comments on establishing a system to allow for operators of approved enhanced oil recovery (EOR) projects to inject produced water from other oil and gas producers and brine from operators of solution mined caverns into their class II EOR wells. The proposed regulatory changes would be designed to incentivize the injection of produced water and brine into depleted reservoirs with the expected benefits of:

1. better efficiencies and economics for oil and gas producers, solution mined cavern operators, and EOR operators;

2. increased production from depleted or marginal fields;

3. re-pressurization of depleted reservoirs;

4. provide alternatives to class II disposal in areas lacking robust disposal zones.

The commissioner shall make, after notice and public hearings as provided in this Chapter, any rules, regulations, and orders that are necessary to:

1. designate the terms and conditions under which produced water and brine will be designated a reusable material permitting injection into class II EOR wells operated by a different entity;

2. permit new or existing EOR wells to receive and inject such reusable material;

3. track the movement and disposition of such reusable material injected into approved EOR projects;

4. provide for a definition of reusable material that will allow oil and gas producers, solution mined cavern operators, and EOR operators to contract between themselves as market forces dictate for the sale, purchase, or other conveyance of such reusable material;

5. any other matters deemed necessary to accomplish the objectives of this notice.

Written comments concerning the proposed program are due no later than 4 p.m., May 20, 2017, and should be submitted to F. Jonathan Rice, Office of Conservation, Executive Division, P.O. Box 94275 Capitol Station, Baton Rouge, LA 70804-9275 or by fax to (225) 242-3663. Persons commenting should reference this document as CON IMD 17-01.

Richard P. Ieyoub  
Commissioner

1704#049

## POTPOURRI

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Public Hearing—Substantive Changes to Notice of Intent 2017-2018 Hunting Regulations and Seasons (LAC 76:XIX.Chapter 1)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission published a Notice of Intent to amend its rules in the January 20, 2017, edition of the *Louisiana Register*. The notice solicited views, arguments,

information, written comments and testimony. As a result of its consideration of the written comments and testimony received, the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission proposes to amend the proposed Rule amendments in relation to Deer Hunting Schedules for the 2017-18 and 2018-19 Seasons, to Deer Area 3 and Deer Area 8 descriptions, and to provide additional Limited Access Areas to the Atchafalaya Delta Wildlife Management Area by developing a map to reflect said additional areas.

## Title 76

### WILDLIFE AND FISHERIES

#### Part XIX. Hunting and WMA Regulations

##### Chapter 1. Resident Game Hunting Season

##### §103. Resident Game Birds and Animals

A. ...

B. Consult Regulation Pamphlet for Seasons or Specific Regulations on Wildlife Management Areas or Specific Localities

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November CLOSES: Last Day of February	10	30
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	24
Squirrel*	OPENS: 1st Saturday of May for 23 days	3	9
Deer 2017-19	See Schedule	1 antlered and 1 antlerless (when legal)	Deer Areas 1,2,3,5,6,7,8, and 9 6/season (not to exceed 3 antlered deer or 4 antlerless deer). Deer Area 4 limit 3/season (not to exceed 2 antlered or 2 antlerless deer). Deer Area 10 limit 3/season (not to exceed 2 antlered or 2 antlerless deer).

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state wildlife management areas will be open, check WMA season schedule.

C. Deer Hunting Schedule 2017-2018

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
* * *				
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
5	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov.	OPENS: 3rd Sat. of Oct. CLOSES: Fri Before 1st Sat. of Nov. OPENS: 2nd Sat of Nov. CLOSES: Sun. after Thanksgiving	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	

D. Deer Hunting Schedule 2018-2019

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
***				
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
5	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
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8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
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E. - G.2.a. ...

3. wildlife management area schedule—opens first Saturday of May for nine days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:2207 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013), LR 40:1535 (August 2014), LR 41:958 (May 2015), LR 42:1108 (July 2016), LR 43:

#### **§111. General and Wildlife Management Area Hunting Rules and Regulations**

A. - D.8. ...

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission from the landowner and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria, or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. In addition, pursuant to R.S. 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when

taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located and the LDWF Enforcement Division by calling (800) 442-2511 of their intention to attempt to take outlaw quadrupeds under the provision of this Paragraph.

10. - 12. ...

#### **E. General Deer Hunting Regulations**

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours of the kill, the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation website.

2. 2017-2018 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou Area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

3. 2018-2019 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Antlerless deer may be harvested during entire deer season

on private lands (all seasons included) except as specified in deer hunting schedule. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

4. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin. Killing antlerless deer is prohibited except where specifically allowed.

5. - 10. ...

11. Primitive Firearms Season: Still Hunt Only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license is required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except as otherwise specified.

11.a. - 12.a.i.(c). ...

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" or "blaze pink". Persons hunting on privately owned land may wear a hunter orange or blaze pink cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned or to archery deer hunters hunting on lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange or blaze pink cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange" or "blaze pink".

14. - 15.b.iii. ...

#### F. Description of Areas, 2017-2019

1. - 2.c.iv. ...

##### 3. Area 3

a. Portions of the following parishes are open:

- i. Acadia—north of I-10;
- ii. Allen—west of US 165 and south of LA 10;
- iii. Beauregard—east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;
- iv. Calcasieu—east of LA 27 from Sulphur northward to the parish line, and north of I-10;
- v. Jefferson Davis—north of I-10 and south of US 190;
- vi. Lafayette—west of I-49 and north of I-10;
- vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line;
- viii. St. Landry—west of US 167;
- ix. Vernon—east of LA 113 to Pitkin, south of LA 10 to Allen Parish line, west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

b. Still hunting only for portions of the following parishes:

- i. Acadia—north of I-10;
- ii. Allen—south of US 190 and west of LA 113;
- iii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;
- iv. Calcasieu—east of LA 27 from Sulphur northward to the parish line, and north of I-10;
- v. Jefferson Davis—north of I-10 and south of US 190;
- vi. Lafayette—west of I-49 and north of I-10;
- vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line;
- viii. St. Landry—west of US 167;
- ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

##### 4. Area 4

a. All of St. Helena and Washington Parishes are open.

b. Portions of the following parishes are also open:

i. East Baton Rouge—all except that portion west of I-110 and west of US 61;

b.ii. - c.v. ...

##### 5. Area 5

a. Portions of the following parishes are open:

i. - iv. ...

v. high water benchmark closure. Deer hunting in those portions of Iberville and St. Martin parishes south of I-10, west of the East Atchafalaya Basin Protection Levee, east of the West Atchafalaya Basin Protection Levee, and north of Alligator Bayou and Bayou Sorrel will be closed when the river stage of the Atchafalaya River reaches 18 feet msl at Butte LaRose, and will reopen when the river stage recedes to 17 feet msl at Butte LaRose. Deer hunting in those portions of Iberville, St. Martin, St. Mary and Iberia parishes west of the East Atchafalaya Basin Protection Levee, east of the West Atchafalaya Basin Protection Levee and south of Alligator Bayou and Bayou Sorrel will be closed when the river stage of the Atchafalaya River reaches 15 feet msl at Butte LaRose, and will reopen when the river stage recedes to 14 feet msl at Butte LaRose.

##### 6. Area 6

a. - b.vii. ...

viii. East Baton Rouge—west of I-110 and west of US 61;

6.b.ix. - 7.a.ii. ...

##### 8. Area 8

a. Portions of the following parishes are open:

i. Beauregard—that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;

ii. Calcasieu—that portion west of LA 27 from the parish line southward to Sulphur and north of I-10 from Sulphur to the Texas state line.

9. - 10.b.v. ...

#### G. WMA Regulations

1. - 3.j. ...

k. Small Game Emphasis Areas. Specially designated areas on certain WMAs will allow small game hunting with dogs, confined to that specific area when the

remainder of the WMA is restricted to still hunt only. Additionally, off season training of rabbit and bird dogs may be allowed on some of the small game emphasis areas. Small game emphasis areas are offered on Big Colewa Bayou, Bayou Macon, Bayou Pierre, Boeuf, Dewey W. Wills, Marsh Bayou, Ouachita, Pomme de Terre, Richard K. Yancey, Sandy Hollow, Sherburne, and Walnut Hill WMAs.

4. - 4.d. ...

e. The following cannot be carried onto any WMA except during modern and primitive firearm deer seasons and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations):

- i. centerfire rifles;
- ii. centerfire break-action and centerfire bolt-action handguns;
- iii. centerfire scoped handguns;
- iv. shotgun slugs or shot larger than BB lead or F steel.

4.f. - 5.a. ...

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day, not to exceed the Deer Area limit for the Deer Area that a WMA is contained within (all segments included) by all methods of take.

c. - f. ...

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for physically challenged hunter permit (PCHP) wheelchair confined hunters on WMAs. Hunters must obtain a PCHP permit and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Floy McElroy, Fort Polk-Vernon, Maurepas Swamp, Sandy Hollow, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF field offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. - m. ...

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" or "blaze pink" and wear a "hunter orange" or "blaze pink" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" or "blaze pink" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" or "blaze pink" cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display "hunter orange" or "blaze pink". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of "hunter orange" or "blaze pink" and wear a "hunter orange" or "blaze pink" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of

"hunter orange" or "blaze pink" above or around their blinds which is visible from 360 degrees.

5.p. - 11. ...

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot, size 6 or smaller must be used for dove, rail, snipe, and gallinule. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: first Saturday of May for nine days. Consult regulations pamphlet for specific WMAs.

13. - 14. ...

15. Hogs. Feral hogs may be taken during any open hunting season on WMAs by properly licensed and/or permitted hunters using only guns or bow and arrow legal for specified seasons in progress, except take of hogs is prohibited during nighttime raccoon seasons. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs during the month of February on Attakapas, Bodcau, Clear Creek, Little River, Pass a Loutre, Pearl River, Sabine, Sabine Island, and West Bay and that portion of Dewey W. Wills north of the Catahoula Lake Diversion Canal by self-clearing permit. All hogs must be killed immediately and may not be transported live under any conditions. During the February dog season hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador/Timken WMAs from February 16 through March 31 with archery equipment, shotguns loaded with buckshot or slugs or rimfire rifles no larger than .22 caliber. Additional requirements may be specified under individual WMAs, see regulation pamphlet.

16. ...

17. WMAs Hunting Schedule and Regulations

a. ...

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of LDWF. All-terrain vehicles, motorcycles, horses, and mules prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

c. - e. ...

f. Biloxi. ATVs, UTVs, motorcycles, horses, and mules are prohibited. Mud boats or air-cooled propulsion vessels can only be powered by straight shaft "long tail" air-cooled mud motors that are 25 total horsepower or less on the WMA. All other types of mud boats or air cooled propulsion vessels (including "surface drive" boats) are prohibited. All ATVs, UTVs, and motorcycles are prohibited.

g. - h. ...

i. Dewey W. Wills. Crawfish: 100 pounds per person per day. Limited access area, no motorized vessels or vehicles allowed from November through January. Road Closures: Hunt Road will be closed when water levels at the



Larto Lake gage (available at <http://rivergages.mvr.usace.army.mil/WaterControl/stationinfo2.cfm?sid=CE7F3AA4&fid=&dt=S>) reach 45.0 ft msl, and will reopen when water levels recede to 43.0 ft. msl; Muddy Bayou Road will be closed when water levels at the Larto Lake gage (available at <http://rivergages.mvr.usace.army.mil/WaterControl/stationinfo2.cfm?sid=CE7F3AA4&fid=&dt=S>) reach 42.0 ft. msl and will reopen when water levels recede to 40.0 msl; and Sandy Bayou Road will be closed when water levels at the Larto Lake gage (available at <http://rivergages.mvr.usace.army.mil/WaterControl/stationinfo2.cfm?sid=CE7F3AA4&fid=&dt=S>) reach 42.0 ft. msl and will reopen when water levels recede to 40.0 msl.

j. - m. ...

n. Joyce. Swamp walk: closed between 30 minutes after sunset to 30 minutes before sunrise, no loaded firearms or hunting allowed within 100 yards of walkways. Crawfish: 100 pounds per person per day.

o. - q. ...

r. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail. Crawfish: 100 pounds per person per day. Benchmark closure: area closed to all deer hunting when USGS water level gauge CRMS 5373, available at <http://waterdata.usgs.gov/la/nwis/rt> is at or above 3.0 ft. msl and reopened to deer hunting when water levels recede to 2.5 ft. msl following a closure. Motorized vehicles prohibited on Crusel Tract (see WMA map for Crusel Tract).

s. ...

t. Pearl River. All roads closed 8 p.m. to 4 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of nature trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Crawfish: Commercial crawfishing prohibited. 100 pounds per person per day.

u. ...

v. Pointe-aux-Chenes. Parking of motorized vehicles on levees prohibited. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational fishing: shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on)

may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having total horsepower above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal and Bayou Pointe-aux-Chenes unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations. All ATVs, UTVs, motorcycles, horses, and mules prohibited.

w. - ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013), LR 40:1540 (August 2014), LR 41:963 (May 2015), LR 42:1112 (July 2016), LR 43:

### Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the Wildlife and Fisheries Commission on May 22, 2017, at 10 am, in the Louisiana Room of the Department of Wildlife and Fisheries, 2000 Quail Drive, Baton Rouge, LA 70809.

Chad J Courville  
Chairman

1704#035

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